



झारखण्ड गजट

असाधारण अंक

झारखण्ड सरकार द्वारा प्रकाशित

संख्या- 426 राँची, शुक्रवार, 2 आषाढ़, 1938 (श०)
23 जून, 2017 (ई०)

नगर विकास एवं आवास विभाग

संकल्प

16 जून, 2017

विषय:-केन्द्र प्रायोजित प्रधानमंत्री आवास योजना “सबके लिए आवास- 2022” अन्तर्गत झारखण्ड राज्य के शहरी क्षेत्रों में Hybrid Annuity Model के आधार पर लोक निजी भागीदारी के अन्तर्गत तृतीय घटक के अन्तर्गत 40 हजार आवासों के निर्माण के संबंध में।

संख्या: 03/न०प्र०नि०/ PMAY/HFA-NEW TECHNOLOGY /12/2017-3866-- भारत के माननीय प्रधानमंत्री के द्वारा विभिन्न अवसरों पर राष्ट्र की स्वतंत्रता के 75 वर्ष पूर्ण होने की अवधि तक प्रत्येक परिवार को आवश्यक नागरिक सुविधा प्रदान करने के साथ “सभी के लिए आवास - शहरी” की परिकल्पना की गई है।

2. इस परिकल्पना को साकार करने के लिए केन्द्र सरकार के द्वारा एक व्यापक मिशन “2022 तक सबके लिए आवास-शहरी” शुरू किया गया है। इस मिशन का उद्देश्य

निम्नांकित विकल्पों के माध्यम से स्लमवासियों सहित राज्य के समस्त आवासहीन निवासियों की आवासीय आवश्यकताओं को पूरा करना है:-

- 2.1 भूमि का संसाधन के रूप में उपयोग करते हुए निजी प्रवर्तकों की भागीदारी से स्लम का पुनर्वास।
 - 2.2 ऋण से जुड़े ब्याज अनुदान के माध्यम से कमजोर वर्ग के लिए किफायती आवास का निर्माण।
 - 2.3 सार्वजनिक तथा निजी क्षेत्रों के साथ भागीदारी में किफायती आवास का निर्माण।
 - 2.4 लाभार्थी आधारित व्यक्तिगत आवास निर्माण के लिए अनुदान।
3. “सबके लिए आवास-शहरी” मिशन की निर्धारित अवधि वर्ष 2015 से 2022 तक है। उक्त मिशन के तहत ऋण से संबंधित अवयव को छोड़कर, शेष योजना केन्द्र प्रायोजित स्कीम (CSS) के रूप में कार्यान्वित की जाएगी। योजनान्तर्गत राशि के सदुपयोग एवं योजनाओं के ससमय क्रियान्वयन हेतु वर्णित प्रावधानों के आलोक में सम्यक् विचारोपरांत निम्नलिखित दिशानिर्देश निर्गत किये गए हैं:-
- 3.1 इस योजना के अन्तर्गत लाभार्थी आर्थिक रूप से कमजोर वर्ग (EWS) के ही होंगे, जिनकी वार्षिक आय रु० 3,00,000/- से कम होगी।
 - 3.2 योजनाओं के अन्तर्गत लाभुक के परिवार में पति, पत्नी एवं अविवाहित बच्चे शामिल होंगे। जिस लाभार्थी परिवार का भारत के किसी भी भाग में अपने अथवा उसके परिवार के किसी भी सदस्य के नाम पर अपना पक्का घर नहीं है, वही परिवार इस मिशन के अन्तर्गत सहायता प्राप्त करने हेतु पात्र होगा।
 - 3.3 इस स्कीम के अन्तर्गत लाभ प्राप्त करने हेतु लाभार्थी द्वारा निम्नांकित अनिवार्य शर्तों का अनुपालन किया जाना है:-
 - 3.3.1 लाभुकों की पात्रता के लिए कट-ऑफ-डेट (Cut -of-date) मिशन के शुभारम्भ की तिथि अर्थात् दिनांक 17 जून, 2015 है।
 - 3.3.2 लाभार्थी को स्कीम के अन्तर्गत लाभ प्राप्त करने हेतु उक्त कट-ऑफ-डेट के पूर्व उस शहरी क्षेत्र/स्लम का निवासी होना अनिवार्य है।
 - 3.3.3 लंबित लाभार्थी का Voter ID Card होना अनिवार्य है।
 - 3.3.4 लाभार्थी के द्वारा उसके पैतृक जिले के राजस्व पदाधिकारी से जारी आवास स्वामित्व प्रमाण-पत्र लेना अनिवार्य है।
 - 3.3.5 लाभुक का बैंक एकाउंट संख्या होना अनिवार्य है। यदि लाभुक का आधार कार्ड हो तो उसे भी देना श्रेयष्कर है।
 - 3.3.6 लाभुक मिशन के विभिन्न घटकों में से केवल एक ही घटक का लाभ ले सकते हैं।

3.3.7 पूर्व में संचालित केन्द्रीय प्रायोजित आवासीय योजनाओं के लाभुक इस मिशन अंतर्गत पात्र नहीं होंगे।

4. सबके लिए आवास - मिशन के अन्तर्गत विभिन्न घटकों (Component) का कार्यान्वयन आवास और शहरी गरीबी उपशमन मंत्रालय, भारत सरकार के द्वारा समय-समय पर निर्गत दिशा-निर्देश के आलोक में किया जा रहा है।
5. राज्य में वर्तमान में योजना के दूसरे एवं चौथे घटक अन्तर्गत लाभुकों को आवास उपलब्ध कराया जा रहा है। योजना के प्रथम एवं तृतीय घटक अन्तर्गत लाभुकों को आवास उपलब्ध कराने हेतु राज्य सरकार दृढ़ संकल्प है। योजना के प्रावधानों के अनुरूप वर्ष 2022 तक सभी आवास विहीन शहरी गरीबों को आवास उपलब्ध कराने हेतु राज्य के समस्त शहरी स्थानीय निकायों के द्वारा Housing for All Plan of Action (HFAPoA) तैयार कराया गया है। राज्य में सर्वे से प्राप्त आंकड़ों के आधार पर योजना के तृतीय घटक अन्तर्गत लगभग 51000 आवासों की आवश्यकता है।
6. उपरोक्त के आलोक में सबके लिए आवास मिशन के तृतीय घटक अन्तर्गत विभाग द्वारा राज्य के विभिन्न शहरी स्थानीय निकायों के क्षेत्र अन्तर्गत चिन्हित भूमि पर प्रथम चरण में 40,000 EWS आवासों का निर्माण किया जाएगा। आवासों के निर्माण के क्रम में यह सुनिश्चित किया जायेगा कि उक्त आवासों में पानी, बिजली, शौचालय एवं अन्य मूलभूत सुविधाएँ अनिवार्य रूप से हों। उक्त आवासीय परिसरों में अन्य आवश्यक आधारभूत संरचनाएँ राज्य योजना मद से निर्मित करायी जाएंगी।
7. केन्द्र प्रायोजित प्रधान मंत्री आवास योजना झारखण्ड राज्य के शहरी क्षेत्रों में कार्यान्वित किये जाने के संबंध में पूर्व में निर्गत संकल्प संख्या-171 दिनांक 5 फरवरी, 2016 के कंडिका 5.3 के तृतीय घटक सार्वजनिक तथा निजी क्षेत्रों के लिए भागीदारी में किफायती आवास निर्माण के लिए अनुदान के रूप में केन्द्रांश राशि रु० 1.50 लाख प्रति आवास निर्धारित है, जिस पर राज्यांश सहायता की राशि शून्य वर्णित की गई है।
8. प्रधानमंत्री आवास योजना “सबके लिए आवास” मिशन के तृतीय घटक हेतु निम्नवत् संशोधन किये जाते हैं:-
 - 8.1 मिशन के तृतीय घटक सार्वजनिक तथा निजी क्षेत्रों के लिए भागीदारी में किफायती आवास निर्माण के लिए अनुदान के रूप में केन्द्रांश राशि रु० 1.50 लाख प्रति आवास निर्धारित है, जिस पर राज्यांश सहायता रु० 1.50 लाख अनुमान्य होगी।

- 8.2 आवासीय इकाई के अलावा, ऐसे आवासीय परिसरों में निर्मित की जाने वाली आवश्यक आधारभूत संरचना (बाहरी आधारभूत संरचना) की लागत राशि का व्यय राज्य मद से किया जाएगा ।
- 8.3 केन्द्रांश एवं राज्यांश अन्तर्गत अनुमान्य राशि के बाद कुल आवासीय लागत की शेष राशि का वहन संबंधित लाभुक द्वारा किया जाएगा ।
9. इस योजना में प्रति इकाई आवास के निर्माण की अनुमानित लागत रु० 5.50 लाख होगी एवं कुल 40,000 आवास के निर्माण हेतु कुल लागत राशि लगभग रु० 2200.00 करोड़ होगी । इस क्रम में अनुमान्य केन्द्रांश मद (@ Rs. 1.5 Lakh प्रति आवासीय इकाई) की राशि लगभग रु० 600 करोड़ एवं लाभुकों के द्वारा देय राशि लगभग रु० 1000 करोड़ देय होगी । इस प्रकार राज्यांश मद में आवास निर्माण हेतु लगभग रु० 600.00 करोड़ की राशि की जरूरत होगी ।
- केन्द्रांश एवं राज्यांश का भुगतान सफल निविदाकर्त्ता को आवासीय परिसर का निर्माण कार्य संपन्न होने के तीन माह के उपरांत चार वर्षों में (08 समान अर्द्ध वार्षिक किस्तों) अनुमान्य ब्याज के साथ प्रत्येक वित्तीय वर्ष के मई एवं अक्टूबर माह में सामान्यतः किया जाएगा ।
10. राज्य के विभिन्न शहरी स्थानीय निकायों में इस घटक अन्तर्गत निर्मित कराए जाने वाले आवासीय परिसरों का Layout Plan सर्वश्री जुडको लि० के माध्यम से तैयार कराया जाएगा । इसके अलावा उक्त आवासीय परिसरों में आवासीय इकाईयों के अलावा निर्माण की जाने वाली आधारभूत संरचनाओं के निर्माण हेतु नगरीय प्रशासन निदेशालय के द्वारा सर्वश्री जुडको लि० से सहयोग प्राप्त करते हुए विस्तृत परियोजना प्रतिवेदन (Detailed Project Report) तैयार कराई जाएगी तथा खुली निविदा के माध्यम से पारदर्शी प्रक्रिया अपनाते हुए कार्यकारी एजेंसी का चयन किया जाएगा ।
- इस क्रम में आवास निर्माण हेतु सफल निविदाकर्त्ता को “Right of First Refusal” का अधिकार दिया जाएगा ताकि आधारभूत संरचनाओं एवं आवासीय इकाईयों के निर्माण में बेहतर पारस्परिक समन्वयन का विकल्प उपलब्ध हो सके । “Right of First Refusal” से यह तात्पर्य है कि आमंत्रित की गई खुली निविदा के न्यूनतम निविदाकर्त्ता के द्वारा उद्धृत दर पर आवास निर्माण हेतु सफल निविदाकर्त्ता को योजना कार्यान्वयन का पहला विकल्प प्रदान किया जाएगा ।
11. आवास की आवश्यकता बहुत अधिक है एवं आवास का निर्माण करने हेतु अवधि मात्र 05 वर्ष (वर्ष 2022 तक) है । अतः आवास निर्माण हेतु नई एवं उभरती तकनीकों (New and Everging Technoloty) के उपयोग किया जाएगा ताकि आवासों का निर्माण

शीघ्र संपन्न किया जा सके एवं ज्यादा से ज्यादा लोगों को आवास उपलब्ध कराया जा सके ।

12. उल्लेखनीय है कि शहरी एवं गरीबी उपशमन मंत्रालय, भारत सरकार की संस्था Building materials & Technology Promotion Council (BMTPC) द्वारा निम्न नई एवं उभरती तकनीकों के उपयोग का सुझाव दिया गया है:-

- 12.1 Monolithic Concrete Construction System using Plastic – Aluminum Formwork
- 12.2 Monolithic Concrete Construction System using Aluminum Formwork
- 12.3 Expanded Polystyrene Core Panel System
- 12.4 Industrialized 3-S System using Precast RCC Columns, Beams & Cellular Light Weight
- 12.5 Concrete Precast RCC Slabs
- 12.6 Speed Floor System
- 12.7 Glass Fiber Reinforced Gypsum (GFRG) Panel Building System
- 12.8 Factory Made Fast Track Modular Building System
- 12.9 Light Gauge Steel Framed Structures (LGSF)

13. प्रधानमंत्री आवास योजना अन्तर्गत आवासों की अत्यधिक आवश्यकता को देखते हुए घटक तीन की अवधारणा के आधार पर लोक निजी भागीदारी में आवासों के निर्माण कराए जाने की आवश्यकता को दृष्टिगत रखते हुए निविदा दस्तावेज तैयार करने के लिए विभागीय पत्रांक-18/प्र०स०को० दिनांक 21 जनवरी, 2017 के द्वारा निम्नवर्णित विभागीय पदाधिकारियों की एक समिति गठित की गयी:

- | | | |
|---|---|---------|
| 13.1 निदेशक, नगरीय प्रशासन निदेशालय | - | अध्यक्ष |
| 13.2 नगर निवेशक, नगर विकास एवं आवास विभाग | - | सदस्य |
| 13.3 मुख्य अभियंता, तकनीकी कोषांग, नगर विकास एवं आवास विभाग | - | सदस्य |
| 13.4 अवर सचिव, नगर विकास एवं आवास विभाग | - | सदस्य |
| 13.5 परियोजना निदेशक (ले०-सह-कंपनी सचिव), जुडको लि० | - | सदस्य |
| 13.6 प्रोक्युरमेंट विशेषज्ञ, SPMG | - | सदस्य |

14. इस समिति के द्वारा आवास एवं शहरी गरीबी उपशमन मंत्रालय, भारत सरकार के Compendium of Prospective Emerging Technology for Mass Housing एवं अन्य सुसंगत दस्तावेजों का अध्ययन करते हुए नगरीय प्रशासन निदेशालय के पत्रांक-441 दिनांक 29 मार्च, 2017 के द्वारा निविदा दस्तावेज (RFQ cum RFP) एवं एकरारनामा प्रारूप तैयार करते हुए विभाग में समर्पित किया है ।

15. उक्त समिति द्वारा तैयार किए गए RFQ cum RFP दस्तावेज के मुख्य प्रावधान निम्नवत् हैं:-

- 15.1 40,000 EWS आवास का निर्माण चरणबद्ध तरीके से किया जाएगा, जिसके लिए आवासीय परिसरवार सफल निविदाकर्त्ता के द्वारा नगरीय प्रशासन निदेशालय में प्रस्तुतिकरण किया जाएगा, जिस पर विभाग से सहमती प्राप्त कर ली जाएगी ।
- 15.2 आवास का निर्माण G+4 के Model में किया जाएगा । प्रत्येक आवास का Carpet Area 27-30 वर्ग मी० तक का होगा । प्रत्येक आवास में दो कक्ष, एक रसोई (Kitchen), एक शौचालय (Toilet) एवं एक स्नानघर (Bath Room) होगा ।
- 15.3 आवास का निर्माण National Building Code (NBC) के मापदण्डों के अनुरूप किया जाएगा ।
- 15.4 आवासीय परियोजना का कार्य सफल निविदाकर्त्ता को कार्यादेश निर्गत होने की तिथि से दो वर्ष (24 माह) के अन्दर पूर्ण किया जाएगा ।
- 15.5 निर्मित किये जाने वाले आवासीय परिसर में आवास के अतिरिक्त आवश्यक आधारभूत संरचना का भी निर्माण किया जाएगा । आधारभूत संरचना में आवश्यकतानुसार Boundary Wall, Gate, Road, Drain, Sewerage, Water Supply Pipeline, External Electrification, Street Light, Rain Water Harvesting, Solid/Liquid Waste Management, Sewerage Treatment, Waste Water recycling, Community Hall, Society Office etc. सम्मिलित होगा ।
- 15.6 निविदाकर्त्ता से उनकी तकनीकी एवं वित्तीय क्षमता संबंधी विवरणी प्राप्त की जाएगी ।
- 15.7 निविदाकर्त्ता द्वारा नई एवं उभरती तकनीकों में से प्रस्तावित तकनीक निम्न वर्णित संस्थाओं में से किसी एक या अधिक संस्था द्वारा प्रमाणित/ अनुमोदित होना चाहिए:-

- 15.7.1 Building Material and Technology Promotion Council (BMTPC) under its performance Appraisal Certificate Scheme
- 15.7.2 Central Building Research Institute (CBRI), Roorkee
- 15.7.3 CSIR- Structural Engineering Research Centre (SERC), Chennai
- 15.7.4 Any Indian Institute of Technology/National Institute of Technology
- 15.7.5 Any other national/international institute of repute duly recognized by the concerned national government/competent authority.

- 15.8 निविदाकर्त्ता द्वारा अपनी प्रस्तावित तकनीक से भारत/विदेश में कम-से-कम 200000 वर्ग मी० Carpet Area का आवास निर्माण किया गया होना चाहिए, जिसमें कम से कम 50% का निर्माण, G+4 एवं उससे अधिक संरचना में किया गया होना चाहिए ।

- 15.9 सफल निविदाकर्ता द्वारा अपने खर्च पर एकरारनामा के अधिकतम चार माह के अन्दर बतौर प्रदर्शनी (For Demonstration) G+4 के Model में दो Block में कुल 32 DUs निःशुल्क बनाना होगा। इस प्रयोजन हेतु राज्य सरकार द्वारा सरकारी भूमि चिन्हित की जाएगी। उक्त भूमि एवं निर्मित किए गए इस प्रदर्शनी ब्लॉक का स्वामित्व सम्बंधित नगर निकाय के पास सुरक्षित रहेगा जिसपर कालक्रम में उपयोग के संबंध में नगर विकास एवं आवास विभाग के द्वारा समुचित निर्णय लिया जाएगा।
- 15.10 राज्य सरकार द्वारा सफल निविदाकर्ता को आवास निर्माण हेतु आधारभूत संरचना (कारखाना आदि) स्थापित करने के लिए आवश्यक भूमि परियोजना अवधि के लिए राजस्व, निबंधन एवं भूमि सुधार विभाग की संकल्प संख्या-48/रा० दिनांक 3 जनवरी, 2017 के प्रावधानों के आलोक में उपलब्ध कराई जाएगी।
- 15.11 निविदाओं के मूल्यांकन हेतु निविदा मापदण्ड निम्नवत् होंगे, जिसकी विस्तृत जानकारी RFQ cum RFP दस्तावेज़ में अंकित की गयी है:-

15.11.1 वित्तीय क्षमता

Minimum Requirement	Qualification Criteria
1. Minimum Net worth of Rs. 250 Cr. 2. Average Annual Turnover of Rs. 600 Cr.	Minimum Financial requirement by a bidder to qualify for evaluation of Technical Capacity.

15.11.2 तकनीकी क्षमता

S.N.	Description	Marking Scale	Max Marks
Technical Capacity			
1.	Assessment of Technology (Power point Presentation)	This would be evaluated based on the presentation made by the Bidder.	10
2.	Constructed area completed in India or outside India using proposed technology during last 10 years (after 01.04.2007) (The project should have been started and completed within last 10 years) Note: Valid documents should be furnished in this regard like project completion certificates, etc. in support of claim.	i. Upto 2,00,000 square meters-5 marks ii. Every addition of 50,000 square meters to above 2,00,000 Sq. mt. – 1 mark each, subject to maximum of 15 marks	20
3.	Technical Experts (Team) proposed for this project	Minimum 5 Senior level technical experts each having experience of 15 (fifteen) years	10

		in construction industry with experience in construction of minimum 1,00,000 square meter using the proposed technology. (Attach CV to be attested by Company Authorities.)	
4.	Number of location wise projects started and completed in India or outside India using proposed technology during last 10 years (after 01.04.2007) with minimum 50,000 Sq. mt. in a single location and G+4 or more.	1 marks for each project, subject to maximum of 10 marks	10
	Max. Marks for Technical Capacity		50

तकनीकी क्षमता में न्यूनतम 35 अंक अर्जित होने के पश्चात् ही निविदाकर्ता का वित्तीय प्रस्ताव को खोला जाएगा ।

15.12 निविदाकर्ता के वित्तीय प्रस्ताव का मूल्यांकन मूलतः दो Bidding parameter के आधार पर किया जाएगा:

15.12.1 आवास के प्रति वर्ग फीट निर्माण की दर (Unit Cost) ।

15.12.2 ब्याज दर, जो योजना पूर्ण होने के तीन माह के उपरांत निविदाकर्ता को देय राशि पर अनुमान्य होगी ।

15.12.3 वित्तीय प्रस्ताव का मूल्यांकन निविदाकर्ता द्वारा समर्पित Unit Cost

एवं ब्याज दर के आलोक में निविदाकर्ता को किए जाने वाले भुगतान को आकलित कर किया जाएगा । न्यूनतम वर्तमान मूल्य (Minimum Present Value of Dwelling Unit Cost) वाले निविदाकर्ता को कार्य आवंटित किया जाएगा ।

PV of Dwelling Unit Cost	=	$(\text{Unit Cost} \times 306^* - 3,00,000) + \text{Present Value of 08 installments of Installment amount discounted at the rate of 12\% per annum}$ <p>*- प्रस्तावित आवास का कुल Carpet Area</p>
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15.13 इस योजनान्तर्गत आवास निर्माण में नियमित अनुश्रवण एवं गुणवत्ता जाँच हेतु नगरीय प्रशासन निदेशालय में सूचीबद्ध परामर्शियों में से तृतीय पक्ष

गुणवत्ता अनुश्रवण संस्था (Third Party Quality Monitoring Agency) का विधिवत् चयन करते हुए आवश्यक सेवाएँ प्राप्त की जाएगी।

16. निविदाकर्त्ताओं द्वारा समर्पित दस्तावेजों के मूल्यांकन हेतु एक निविदा समिति का गठन किया जाएगा, जिसके सदस्य निम्नवत् होंगे:-

16.1	निदेशक, नगरीय प्रशासन निदेशालय	-	अध्यक्ष
16.2	नगर विकास एवं आवास विभाग के प्रतिनिधि	-	सदस्य
16.3	नगर निवेशक, नगर विकास एवं आवास विभाग	-	सदस्य
16.4	मुख्य अभियंता, तकनीकी कोषांग, नगर विकास एवं आवास विभाग-	-	सदस्य
16.5	वित्त विभाग के प्रतिनिधि	-	सदस्य
16.6	मंत्रिमण्डल सचिवालय एवं निगरानी विभाग के प्रतिनिधि	-	सदस्य
16.7	BMTPC के प्रतिनिधि (तकनीकी)	-	सदस्य

इस समिति के द्वारा आवश्यकतानुसार विषय वस्तु के विशेषज्ञों को समिति की बैठक में आमंत्रित किया जा सकेगा।

17. सफल निविदाकर्त्ता के द्वारा योजना पूर्ण किए जाने तक पूर्ण लागत राशि लगाई जाएगी, जिसका भुगतान योजना पूर्ण होने के पश्चात् Hybrid-Annuity Model के आधार पर निम्नवत् किया जाएगा:-

17.1	On Handover of completed Project	17.1.1 Cost of one dwelling unit less the Government of India and government of Jharkhand Share amounting to Rs. 3.00 lakhs (Rupees Three Lakh Only) by the beneficiary (i.e. to whom the dwelling unit would be allotted)
17.2	Subsequent to the Project Completion	17.2.1 An Amount of Rs. 3.00 lakhs (The Government of Jharkhand Share of Rs. 1,50,000/- + Government of India share of Rs. 1,50,000/-) plus the interest (based on the interest rate quoted by the Selected Bidder) shall be payable in 08 (eight) equated half yearly installments ("Installment Amount") payable in May and October every year, starting three months after the completion of any project.

18. शहरी विकास एवं गरीबी उपशमन मंत्रालय, भारत सरकार से इस योजना पर विधिवत् स्वीकृति प्राप्त कर ली जाएगी।
19. उपर्युक्त क्रम में नगर विकास एवं आवास विभाग की अधिसूचना संख्या- 7/नंवि/अधि/संसो/02/2013/2006 दिनांक 5 अप्रैल, 2016 के द्वारा अधिसूचित झारखण्ड भवन निर्माण उपविधि- 2016 के उपनियम 89 के आलोक में उपनियम 49.1

में G+4 भवनों में अनिवार्य रूप से अधिष्ठापित की जाने वाली लिफ्ट से सम्बंधित प्रावधान शिथिल समझे जायेंगे ।

20. निर्मित 40,000 आवासों का आवंटन Housing for All Plan of Action (HFAPoA) में सम्मिलित लाभुकों में से इच्छुक आवेदक लाभुकों के बीच निकायवार लॉटरी द्वारा किया जाएगा ।

21. लॉटरी हेतु जिलावार एक समिति का गठन किया जाएगा जिसके सदस्य निम्नवत् होंगे:-

21.1	निकाय के जिला के उपायुक्त	-	अध्यक्ष
21.2	संबंधित निकायों के नगर आयुक्त/अपर नगर आयुक्त/ कार्यपालक पदाधिकारी/विशेष पदाधिकारी	-	सदस्य
21.3	लाभुकों के एक प्रतिनिधि	-	सदस्य

22. योजनान्तर्गत निर्मित आवासों का आवंटन परिवार की व्यस्क महिला मुखिया के नाम से होगा । यदि परिवार में कोई महिला मुखिया सदस्य मार्गदर्शिका के अनुरूप नहीं है तो, पुरुष मुखिया सदस्य के नाम के आवास आवंटन किया जा सकेगा ।

23. आवास आवंटन संबंधी नियम एवं शर्तें निम्नवत् होंगी:-

23.1 सुपात्र आवेदक के द्वारा संबंधित निकाय में आवास हेतु आवेदन पत्र के साथ अप्रतिदेय प्रक्रिया शुल्क (Non refundable Process fee) के रूप में 200 रुपये की राशि नकद/चेक/ड्राफ्ट के द्वारा जमा की जाएगी ।

23.2 निकाय द्वारा प्राप्त आवेदनों की जाँच के पश्चात् निर्धारित तिथि को लॉटरी द्वारा आवास के आवंटन हेतु आवेदकों का चयन किया जाएगा ।

23.3 लॉटरी द्वारा चयनित आवेदकों को निश्चित समय सीमा के अन्दर अग्रिम राशि

रु० 25,000/- बैंकर्स चेक/डी०डी०/RTGS के माध्यम से संबंधित निकाय में जमा करानी होगी ।

23.4 उक्त अग्रिम राशि का समायोजना लाभुक द्वारा आवास हेतु देय राशि में किया जाएगा । ऐसे लाभुक, जिनके द्वारा उक्त समय सीमा के अन्दर अग्रिम राशि निकाय में जमा नहीं की जाती है, का आवंटन रद्द कर दिया जाएगा । उनकी जगह प्रतीक्षारत्त लाभुक को आवास का आवंटन कर दिया जाएगा ।

23.5 लॉटरी के दौरान 10% लाभुकों की प्रतीक्षासूची भी तैयार की जाएगी ताकि आवासों के आवंटन रद्द होने की स्थिति में इस प्रतीक्षासूची का उपयोग किया जा सके ।

- 23.6 आवेदक द्वारा विहित प्रपत्र में दी गयी जानकारी गलत साबित होने पर आवंटन रद्द कर दिया जाएगा तथा ऐसे आवेदक कानूनी कार्रवाई के भागी होंगे ।
24. PPP के आधार पर Annuity Hybrid Annuity Model के तहत क्रियान्वित योजनाओं हेतु बजट में एक स्वतंत्र शीर्ष सृजित किया जाएगा, जिससे ऐसी योजनाओं की Annuity की राशि नियमानुसार व्यय की जा सकेगी ।
25. आवास आवंटन हेतु लाभुक अंशदान के भुगतान हेतु जिन लाभुकों को स्वयं के अतिरिक्त अन्य श्रोतों से वित्तीय सहायता की आवश्यकता होगी, उन्हें वित्तीय संस्थानों से ऋण प्राप्त करने में निकाय द्वारा सलाह एवं सहायता प्रदान की जाएगी ।
26. इस संबंध में बैंकों से लाभुकों को ऋण प्राप्त करने की प्रक्रिया में सहूलियत (Facilitation) के लिए निदेशालय द्वारा विभिन्न वित्तीय संस्थानों से द्विपक्षीय एकरारनामा (MoU) किया जाएगा ।
27. प्रधानमंत्री आवास योजना का मुख्य उद्देश्य राज्य के आवास विहीनों को आवास उपलब्ध कराना है, जिस क्रम में आर्थिक रूप से कमजोर वर्ग के आवास विहीन परिवारों को आवास उपलब्ध कराना एक बहुत बड़ी चुनौती है ।
ऐसे आर्थिक रूप से कमजोर वर्ग के आवास विहीन परिवारों से संकल्प की कंडिका 8.3 के अनुसार अपने अनुमान्य अंश की राशि का वहन करना पूर्व से प्रावधानित है ।
आर्थिक रूप से कमजोर वर्ग के आवास विहीन परिवारों पर भूमि मूल्य एवं निबंधन का भार डालना तार्किक एवं श्रेयष्कर नहीं है । अतः आर्थिक रूप से कमजोर वर्ग के आवास विहीन परिवारों को आवास के स्वामित्व हस्तांतरण के साथ विक्रय पर गैर-मजरूआ भूमि हस्तांतरण से संबंधित राजस्व, निबंधन एवं भूमि सुधार विभाग की संकल्प सं० 4306/रा० दिनांक 24 अक्टूबर, 2014 के प्रावधान लागू नहीं होंगे एवं आवास के निबंधन के कोई शुल्क देय नहीं होंगे ।
28. योजना का क्रियान्वयन RFQ-cum-RFP दस्तावेज एवं Draft Development Agreement (प्रतिलिपि संलग्न) के माध्यम से किया जाएगा ।
29. योजना का कार्यान्वयन विभागीय दिशा निर्देश के अनुसार किया जाना अनिवार्य होगा।
30. इस योजना पर दिनांक 13 जून, 2017 को सम्पन्न मंत्रिपरिषद् की बैठक में मद सं०-11 के रूप में प्रशासनिक स्वीकृति प्रदान की गयी है ।
31. यह संकल्प निर्गत तिथि से प्रभावी होगा तथा इस संकल्प का दृढ़ता से अनुपालन सुनिश्चित किया जायेगा ।

झारखण्ड राज्यपाल के आदेश से,
अरुण कुमार सिंह,
सरकार के प्रधान सचिव।

REQUEST FOR QUALIFICATION CUM PROPOSAL

**CONSTRUCTION OF 40000 E.W.S. DWELLING UNITS ON HYBRID ANNUITY
MODEL ON PPP BASIS UNDER VERTICAL-3 OF PMAY – HOUSING FOR ALL 2022
(URBAN) IN URBAN AREAS IN JHARKHAND**

*Volume 1: Instructions to Bidders***(BID DUE DATE:)**

**Directorate of Municipal Administration
Department of Urban Development & Housing Department
3rd Floor, FFP Building, Opp. Project Building,
Dhurwa, Ranchi 834 004, Jharkhand**

CONSTRUCTION OF 40000 E.W.S. DWELLING UNITS ON HYBRID ANNUITY MODEL ON PPP BASIS UNDER VERTICAL-3 OF PMAY – HOUSING FOR ALL 2022 (URBAN) IN URBAN AREAS IN JHARKHAND

Notice No. Dt: _____

REQUEST FOR QUALIFICATION CUM PROPOSAL DOCUMENT

Bids in the prescribed format are invited for the project.

1	Name of the Project	Construction Of 40000 E.W.S. Dwelling Units on Hybrid Annuity Model On PPP Basis under Vertical-3 Of PMAY – Housing For All 2022 (Urban) In Urban Areas In Jharkhand
2	Last date & time for submission of Bid (Bid Due Date)	Date Time
3	Time and Place of Pre Bid Conference	Date Time Place
4	Date & time for opening of Technical Bids	Date Time Place
5	Date & time for opening of Financial Bids	Date Time Place

It is expressly understood that the party has subscribed to this document with an express understanding that they will use this document only for the sole purpose of participating in the Selection process for the **CONSTRUCTION OF 40000 E.W.S. DWELLING UNITS ON HYBRID ANNUITY MODEL ON PPP BASIS UNDER VERTICAL-3 OF PMAY – HOUSING FOR ALL 2022 (URBAN) IN URBAN AREAS IN JHARKHAND** and must not be used for any other purpose. This document must not be passed to a third party except professional advisers assisting with this Bid submission. The document may not be reproduced or communicated, in whole or in part, and its contents may not be distributed in written or oral form without written permission from the issuing authority.

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Disclaimer

The information contained in this Request for Qualification cum Proposals document (the “RFQP”) or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of Directorate of Municipal Administration (DMA) or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFQP and such other terms and conditions subject to which such information is provided.

This RFQP is not an agreement and is neither an offer nor invitation by Directorate of Municipal Administration (DMA) to the prospective Bidders or any other person. The purpose of this RFQP is to provide interested parties with information that may be useful to them in the formulation of their proposals pursuant to this RFQP. This RFQP includes statements, which reflect various assumptions and assessments arrived at by DMA in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFQP may not be appropriate for all persons, and it is not possible for DMA, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFQP. The assumptions, assessments, statements and information contained in this RFQP may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFQP and obtain independent advice from appropriate sources.

Information provided in this RFQP to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. DMA accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

DMA, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFQP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFQP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFQP or arising in any way for participation in this Bid Stage.

DMA also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFQP.

DMA may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFQP.

The issue of this RFQP does not imply that DMA is bound to select a Bidder or to appoint the Selected Bidder or Developer, as the case may be, for the Project and DMA reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by DMA or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and DMA shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

DMA reserves its right to withdraw from the process at any stage of the process and/or modify the process or any part thereof or to vary any terms at any time or stage without assigning any reasons whatsoever. In such an event, no financial obligation of whatsoever nature shall accrue to DMA or any of its respective officers, employees, advisors or agents.

Each Bidder's procurement of this RFQP constitutes its agreement to, and acceptance of, the terms set forth in this Disclaimer. By acceptance of this RFQP, the recipient agrees that this RFQP and any information herewith supersedes document(s) or earlier information, if any, in relation to the subject matter hereto.

INTRODUCTION

Background

Directorate of Urban Development (DMA) provides civic amenities in urban areas and extends support through urban local bodies to the deprived section of the society as well as shares the responsibility of insuring planned development of the city and its outskirt. Induction of the twelfth schedule in the constitution through 74th Constitutional amendment has brought various urban activities and services such as urban planning including town planning, regulation of land use, planning for economic and social development, safeguarding the interests of weaker sections of society, providing civic amenities, promotion of cultural, education and aesthetic aspects etc. within the purview of urban local bodies.

Urban Local Bodies (ULBs) of various districts holds land parcels at various location in the respective districts in the State of Jharkhand. DMA is responsible to develop such land parcels and has decided to undertake Development of Housing Colonies in such land parcels in the State of Jharkhand using New and Emerging Technologies (the “Project”) through Public Private Partnership (the “PPP”) mode. The scope of the Project includes construction of dwelling units on the Project Site/s complete with all the internal plumbing, electrical works, water and sewerage system, drainage system and associated facilities but excluding the External Infrastructure.

For the purpose of this RFQP, New and Emerging Technologies shall mean any technology as set out in Clause 1.1.5 which replaces the following:

- a. Load bearing building i.e. walling, roofing built with conventional technology of brick masonry/ CC block & RCC roof; and/or
- b. RCC beam and column frame structure within fill walling material e.g. burnt clay brick, fly ash bricks, CC blocks or Aerated Cement concrete blocks wall etc.

As a part of this endeavour, DMA has decided to undertake the Project under Design, Build, Finance and Transfer (the “DBFT”) basis therefore, decided to carry out the bidding process for selection of an entity as the Bidder to whom the Project may be awarded.

The Selected Bidder, who is either a company incorporated under the Companies Act, 1956/2013 or undertakes to incorporate as such prior to execution of the Development Agreement (the “Developer”), shall be responsible for designing, engineering, financing, procurement, construction and transfer of the Project for a period of 10 (Ten) years, in accordance with Development Agreement (the “Development Agreement”), to be entered into between the Selected Bidder/or an SPC promoted by the Selected Bidder and DMA as part of the Bidding Documents pursuant hereto.

The Scope of work of the Project shall broadly include development of housing colonies with designing, financing, construction and transfer of dwelling units each having a carpet area approximately ~27 to 30 sqmt complete with all the internal plumbing, electrical works, water and sewerage system, drainage system and associated facilities but

excluding the External Infrastructure and more particularly as set forth in the Development Agreement. The following technologies can be used for the purpose:

- a. Monolithic Concrete Construction System using Plastic - Aluminum Formwork
- b. Monolithic Concrete Construction System using Aluminum Formwork
- c. Expanded Polystyrene Core Panel System
- d. Industrialized 3-S System using Precast RCC Columns, Beams & Cellular Light Weight
- e. Concrete Precast RCC Slabs
- f. Speed Floor System
- g. Glass Fiber Reinforced Gypsum (GFRG) Panel Building System
- h. Factory Made Fast Track Modular Building System
- i. Light Gauge Steel Framed Structures (LGSF)

The proposed alternate technology/system must have been used in a residential project in India or in abroad. It shall be suitable to geo-climatic and hazard conditions of the region, having design compatibility & flexibility to suit the requirements of the structure to be built and minimum design life of 50 years.

The salient features of this Project are as follows:

- a. The number of dwelling units expected to be developed under this Project are approximately ~40,000. The number of units can be increased/ decreased by upto 25%, depending on actual requirement.
- b. Estimated number of floors is G+4 subject to local building bye laws.
- c. Multiple locations in the State of Jharkhand attached as Annexure 1
- d. The land for the Project shall be provided by DMA free of any encumbrance.
- e. Separate Price Bid for each technology shall be submitted by the Bidder.
- f. Bidder may propose more than one construction technology in such a case the Bidder shall submit a single Technical Bid with separate set of documents for each proposed construction technology along with a single set of qualification documents for Qualification Phase.
- g. All the walls/roof in the dwelling units shall be with concrete finish.
- h. The successful Bidder shall **demonstrate a project of 2 blocks comprising of minimum 32 dwelling units at his own cost** within four months of the signing of the Development Agreement. The land shall be provided by DMA for the purpose of the same.
- i. If required, DMA will provide appropriate quantity of land to the Developer to establish factory for the purpose of the implementation of the Project. This land shall be returned to DMA after the agreement period.
- j. Layout plan of the residential complexes in the housing projects will be got prepared by DMA through JUIDCO.
- k. Directorate of Municipal Administration (DMA) will get DPR prepared for basic external infrastructure of the housing projects with the help of JUIDCO. Basic external infrastructure includes Boundary Wall, Gate, Road, Drain, Sewerage, Water Supply Pipeline, External Electrification, Street Light, Rain Water Harvesting, Solid/ Liquid Waste Management, Sewerage Treatment, Waste Water recycling, Community Hall, Society Office etc. related other basic infrastructure facilities.
- l. For construction of External Infrastructure, a separate tender shall be released and the Developer shall have the 'Right of First Refusal' in this tender.

- m. For regular monitoring and quality control in the projects, a Third Party Quality Monitoring Agency will be duly selected from amongst consultants empanelled in DMA.

The Bidder would be given the option to plan and design the Project Facilities conforming to the applicable building bye-laws and regulations/ norms/standards for respective project components including arranging approval from the competent authorities.

The Selected Bidder shall have incorporate a special purpose company (“SPC”) under The Companies Act, 2013 who as a Developer shall implement the Project in accordance with the provisions of a Development Agreement to be entered into between the Developer and DMA in the form provided as part of the Bidding Documents pursuant hereto.

DMA invites Bids in terms of this Request for Qualification cum Proposal (“RFQP”) Document.

The estimated cost of the Project (the “Estimated Project Cost”) is ~ Rs. 2200 crores (Rupees Two Thousand two hundred Crores only). However, the assessment of actual costs shall have to be made by the Bidders.

The draft Development Agreement sets forth the detailed terms and conditions for grant of the concession to the Developer, including the scope of the Developer’s services and obligations including the minimum development obligations (the “Concession”).

The statements and explanations contained in this RFQP are intended to provide a better understanding to the Bidders about the subject matter of this RFQP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Developer set forth in the Development Agreement or DMA’s rights to amend, alter, change, supplement or clarify the scope of work, the Concession to be awarded pursuant to this RFQP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFQP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by DMA.

DMA shall receive Bids pursuant to this RFQP in accordance with the terms set forth in this RFQP and other documents to be provided by DMA pursuant to this RFQP, as modified, altered, amended and clarified from time to time by DMA (collectively the “Bidding Documents”), and all Bids shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 for submission of Bids (the “Bid Due Date”).

Brief description of Bidding Process

DMA has adopted a single-stage two-envelope bidding process (the “Bidding Process”) for selection of the Bidder for award of the Project collectively referred to as the "Bidding Process") for selection of the Bidder for award of the Project.

The Bidders (the “Bidders”, which expression shall, unless repugnant to the context, include the Members of the Consortium) are required to submit their Bids (the “Bids”) in two envelopes (i)Qualification Bid and (ii)Financial Bid

Prior to submission of the Bid, the Bidder shall pay to DMA a sum of Rs **20,000(Rupees Twenty Thousand only)** as the cost of the RFQP. The cost is to be paid in the form of a Demand Draft issued by one of the Nationalized/Scheduled Banks in India in favour of DMA, payable at Ranchi.

The qualification stage (the “Qualification Stage”) of the Bidding Process involves qualification of prospective bidder(s) in accordance with the provisions of this RFQP which expression shall, unless repugnant to the context, include the members of the Bidder bidding as consortium/joint venture of entities. At the end of this stage, DMA shall identify the Qualified Bidders (“Qualified Bidders”).

Price Bids at the Price Bid stage of the Bidding Process (the "Price Bid Stage") comprising the opening and evaluation of price Bid (the “Price Bid”) of the only the Qualified Bidders shall be carried out. The Price Bids of those Qualified Bidders who do not qualify as Qualified Bidders shall be returned unopened at the time of opening of Price Bid.

The Bidding Documents include the draft Development Agreement for the Project. Subject to the provisions of Clause 2.5.1, the aforesaid documents and any addenda issued subsequent to this RFQP Document, will be deemed to form part of the Bidding Documents.

A Bidder is required to deposit, along with its Bid, a bid security of Rs. 20 cr. (Rupees Twenty Crore Only) (the “Bid Security”), refundable not later than 60 (sixty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Development Agreement. The Bidders will have to provide Bid Security in the form of a Demand draft or a Bank Guarantee acceptable to DMA. In case a Bank Guarantee is provided, its validity period shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between DMA and the Bidder from time to time. Where a demand draft is provided, its validity shall not be less than **80 (eighty)** days from the Bid Due Date, for the purposes of encashment by DMA. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.

During the Bid Stage, Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the Concession including implementation of the Project.

Generally, the Lowest Bidder (the “Lowest Bidder”) shall be the Selected Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in Section 3 and Section 4 of this RFQP, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the Bid of the Lowest Bidder, DMA may, in its discretion, either invite fresh Bids from the remaining Bidders or annul the Bidding Process.

Any queries or request for additional information concerning this RFQP shall be submitted in writing by speed post/ courier/ special messenger and by e-mail so as to reach the officer designated in Clause 2.17.3 by the specified date. The envelopes/ communications shall clearly bear the following identification/ title:

“Queries/ Request for Additional Information:

CONSTRUCTION OF 40000 E.W.S. DWELLING UNITS ON HYBRID ANNUITY MODEL ON PPP BASIS UNDER VERTICAL-3 OF PMAY – HOUSING FOR ALL 2022 (URBAN) IN URBAN AREAS IN JHARKHAND ”.

Schedule of Bidding Process

The schedule of Bidding Process is set out in Appendix 1

Pre-Bid Conference

A Pre-Bid Conference shall be held to clarify issues and to answer questions on any matter that may be raised at that stage. The date, time and venue of the Pre-Bid Conference shall be:

Date:

Time:

Venue:

INSTRUCTIONS TO BIDDERS

A. GENERAL

Scope of the Bid

DMA wishes to receive Bids in order to select experienced and capable Bidders for the Project. The Price Bids of Bidders fulfilling the qualification criteria and the technical criteria shall be subsequently evaluated.

Terms used in this RFQP Document which have not been defined herein shall have the meaning ascribed thereto in the draft Development Agreement.

Notwithstanding anything to the contrary contained in this RFQP Document, the detailed terms specified in the draft Development Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Development Agreement.

Eligibility of Bidders

For determining the eligibility of bidders hereunder, the following shall apply:

- a. The Bidder for qualification and selection may be a single entity or a group of entities (the “**Consortium**”), coming together to implement the Project. However, no Bidder applying individually or as a member of a Consortium, as the case may be, can be member of another Bidder. The term Bidder used herein would apply to both a single entity and a Consortium.
- b. The Bidder may be private entity, government-owned entity incorporated under the Indian Companies Act 1956/2013 or applicable laws of foreign countries or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.3.4 below.
- c. The Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, DMA shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by DMA and not by way of penalty for, *inter alia*, the time, cost and effort of DMA, including consideration of such Bidder’s proposal (the “**Damages**”), without prejudice to any other right or remedy that may be available to DMA under the Bidding Documents and/ or the Development Agreement or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if
 - i. The Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up

and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate is less than 5 per cent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in sub-section (72) of section 2 of the Companies Act, 2013. For the purposes of this Clause 2.2.1 (c)(i), indirect shareholding held through one or more intermediate persons shall be computed as follows:

- where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the “Subject Person”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and
 - subject always to sub-clause (i) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (ii) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or
- ii. a constituent of such Bidder is also a constituent of another Bidder; or
 - iii. such Bidder or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or any Associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
 - iv. such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
 - v. such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other’s information about, or to influence the Bid of either or each other; or
 - vi. such Bidder or any Associate thereof has participated as a consultant to DMA in the preparation of any documents, design or technical specifications of the Project.
- d. A Bidder shall be liable for disqualification if any legal, financial or technical adviser of DMA in relation to the Project is engaged by the Bidder, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated prior to the Bid Due Date. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from COD (the “**Commercial Operation Date**”) of the Project.

Explanation:

In case a Bidder is a Consortium, then the term Bidder as used in this Clause 2.2.1, shall include each Member of such Consortium.

For purposes of this RFQP, Associate means, in relation to the Bidder/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Bidder/ Consortium Member (the “Associate”). As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

Qualification Criteria

To be eligible for short-listing i.e. opening and evaluation of the Financial Bid, the Bidder shall fulfill the following conditions:

- A. Technical Capacity:** For demonstrating technical capacity and experience (the “Technical Capacity”), the Bidder shall, after 1.4.2007, have

SN	Minimum Requirement
a.	Completed construction, in India or abroad using its proposed technology, of minimum 2.0 lakh square meter carpet area out of which atleast 50% of the carpet area shall be in G+4 and above. For the purpose, the Bidder shall submit client certificate or Statutory Auditor certificate giving reasonable details to establish its claim.
b.	<p>The construction technology proposed by the Bidder shall be certified/ approved by any of the following institutes:</p> <ol style="list-style-type: none"> Building Material and Technology Promotion Council (BMTPC) under its Performance Appraisal Certification Scheme Central Building Research Institute (CBRI), Roorkee CSIR-Structural Engineering Research Centre (SERC), Chennai Any Indian Institute of Technology / National Institute of Technology Any other national/ international institute of reputed / duly recognized by their National Governments/ competent authority. <p>Based on representation made by the Bidder at the pre-bid conference. The Bidder shall submit a certified copy of such certification. The certification should include:</p> <ol style="list-style-type: none"> Structural safety (Strength & Serviceability) of the system against vertical and lateral load (wind & seismic loads as applicable) as per relevant Indian Standards, including performance of joints, as applicable. Fire safety as per National Building Code (latest version) and / or provisions in the local Bye-laws. Resistance against water and moisture penetration.- As per any recognised international standard/practice like ASTM/Agreement South Africa. Thermal behaviour-Comparing the thermal rans mission loss of the system with that of traditional construction (refer IS 3792:1978) Thermal Performance should there be comparable or better than conventional. Acoustic behaviour – Minimum sound transmission loss of 40 dB as per IS 1950:1962 Durability –to be evaluated considering <ul style="list-style-type: none"> Expected service life of the system compared to conventional Evidence of building(s) sustained for at least 10 years. Performance under accelerated tests like alternate wetting and drying, salts pry test etc. <p>All the materials used shall conform to Indian/International Standards and must be accepted by the agency providing certification for performance criteria.</p>

B. Financial Capacity: The Bidder shall have a

- (i) Minimum Net worth (the “**Financial Capacity**”) of Rs. 250 Cr (Rupees Two Hundred and Fifty Crore only) at the close of the preceding financial year; and
- (ii) Average Annual Turnover of Rs. 600Cr (Rupees Six Hundred Crore only) in the last 3 (three) financial years.

In case of a Consortium, the combined minimum Net worth and Average Annual Turnover as the case may be as specified above shall be calculated of those Members, who shall have an equity share of at least 26% (Twenty Six per cent) each in SPV, should satisfy the above conditions of eligibility; provided that each such Member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than:

- (i) 26% (twenty six percent) of the subscribed and paid up equity of the SPV; and
- (ii) 5% (Five percent) of the Total Project Cost specified in the Concession Agreement

C. Further, Technical Capacity of only those Bidders would be evaluated who meet the Financial Capacity as mentioned in Clause 2.3.1 (B)

The Bidder shall enclose with its Bid, to be submitted as per the formats specified in Appendices, the following:

- i. certificate(s) from statutory auditors of the Bidder or its Associates specifying the Net Worth and, as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such Net Worth conforms to the provisions of this Clause 2.3.1 (B). For the purposes of this RFQP, net worth (the “**Net Worth**”) shall mean the sum of subscribed and paid up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity share holders.
- ii. certificate(s) from statutory auditors of the Bidder or its Associates specifying the Average Annual Turnover, in the preceding 3 Financial Years, and also specifying that the methodology adopted for calculating such Average Annual Turnover.

The Bidder should submit a Power of Attorney as per the format in Appendix-9, authorizing the signatory of the Bidder to commit the Bidder. In the case of a Consortium, the Members should submit a Power of Attorney in favour of the Lead Member as per format at Appendix-10.

Where the Bidder is a single entity, it may be required to form an appropriate Special Purpose Company, incorporated under the Indian Companies Act, 2013 (the “SPC”), to execute the Development Agreement and implement the Project. In case the Bidder is a Consortium, it shall, in addition to forming an SPC, comply with the following additional requirements:

- a. Number of members in a consortium shall not exceed 3;
- b. Subject to the provisions of sub-clause (a) above, the Bid should contain the information required for each member of the Consortium;
- c. Members of the Consortium shall nominate one member as the lead member (the **“Lead Member”**), who shall have an equity share holding of at least 26% (twenty six per cent) of the paid up and subscribed equity of the SPC. The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-10, signed by all the other members of the Consortium;
- d. The other members of the Consortium shall have an equity shareholding of at least 10% (ten per cent) of the paid up and subscribed equity of the SPC
- e. The Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations;
- f. An individual Bidder cannot at the same time be member of a Consortium submitting a bid. Further, a member of a particular Bidder Consortium cannot be member of any other Bidder Consortium submitting a bid;
- g. The members of a Consortium shall form an appropriate SPC to execute the Project, if awarded to the Consortium;
- h. Members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix-10 (the **“Joint Bidding Agreement”**), for the purpose of making the Bid. The Joint Bidding Agreement, to be submitted along with the Bid, shall, *inter alia*:
 - i. Convey the intent to form an SPC with shareholding/ownership equity commitment(s) in accordance with this RFQP, which would enter into the Development Agreement and subsequently perform all the obligations of the Developer in terms of the Development Agreement, in case the Project is awarded to the Consortium;
 - ii. clearly outline the proposed roles and responsibilities, if any, of each member;
 - iii. commit the minimum equity stake to be held by each member;
 - iv. commit that each of the members, whose experience will be evaluated for the purposes of this RFQ, shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV and shall further commit that each such member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement;
 - v. members of the Consortium undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity of the SPV at all times until the second anniversary of the commercial operation date of the Project; and
 - vi. include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Developer in relation to the

Project until the Financial Close of the Project is achieved in accordance with the Development Agreement; and

- i. Except as provided under this RFQP and the Bidding Documents, there shall not be any amendment to the Joint Bidding Agreement without the prior written consent of DMA.

Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Bid, would not be eligible to submit a Bid, either individually or as member of a Consortium.

A Bidder including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder, Consortium Member or Associate. Provided, however, that where a Bidder claims that its disqualification arising on account of any cause or event specified in this Clause 2.3.6 is such that it does not reflect (a) any malfeasance on its part in relation to such cause or event; (b) any wilful default or patent breach of the material terms of the relevant contract; (c) any fraud, deceit or misrepresentation in relation to such contract; or (d) any rescinding or abandoning of such contract, it may make a representation to this effect to DMA for seeking a waiver from the disqualification hereunder and DMA may, in its sole discretion and for reasons to be recorded in writing, grant such waiver if it is satisfied with the grounds of such representation and is further satisfied that such waiver is not in any manner likely to cause a material adverse impact on the Bidding Process or on the implementation of the Project.

In computing the Net worth Average Annual Turnover of the Bidder/Consortium Members under Clause 2.3.1, the Net Worth of their respective Associates would also be eligible **hereunder**.

The following conditions shall be adhered to while submitting a Bid:

- a. Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Appendices is insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information;
- b. Information supplied by a Bidder (or other constituent Member if the Bidder is a Consortium) must apply to the Bidder, Member or Associate named in the Bid and not, unless specifically requested, to other associated companies or firms.
- c. In responding to the Bid submissions, Bidders should demonstrate their capabilities in accordance with Section 2,3and 4.
- d. In case the Bidder is a Consortium, each Member should substantially satisfy the qualification requirements to the extent specified herein.

While Qualification is open to persons from any country, the following provisions shall apply:

- a. Where, on the date of the Bid, 25% (twenty five per cent) or more of the aggregate issued, subscribed and paid up equity share capital in a Bidder or its Member is held by persons resident outside India or where a Bidder or its Member is controlled by persons resident outside India; or
- b. if at any subsequent stage after the date of the Bid, there is an acquisition of 25% (twenty five per cent) or more of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Bidder or its Member;

[then the Qualification of such Bidder or in the event described in sub clause (b) above, the continued Qualification of the Bidder shall be subject to approval of DMA from national security and public interest perspective. The decision of DMA in this behalf shall be final and conclusive and binding on the Bidder]

[The holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, DMA shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, or any substitute thereof, as in force on the date of such acquisition]

The Bidder shall promptly inform DMA of any change in the shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.

Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within 3 (three) months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Bid and furnish all its information and certification with reference to the 5 (five) years or 1 (one) year, as the case may be, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of a Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

General terms of Bidding

Notwithstanding anything to the contrary contained in this RFQP, the detailed terms specified in the draft Development Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Development Agreement.

Any condition or qualification or any other essential stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.

The documents including this RFQP and all attached documents, provided by DMA are and shall remain or become the properties of DMA and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.4.3 shall also apply mutatis mutandis to Bids and all other documents submitted by the Bidders, and DMA will not return to the Bidders any Bid, document or any information provided along therewith.

A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of DMA in relation to the Project is engaged by the Bidder, its Members or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Development Agreement. In the event any such adviser is engaged by the Selected Bidder or Developer, as the case may be, after issue of the LOA or execution of the Development Agreement for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOA or the Development Agreement and without prejudice to any other right or remedy of DMA, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which DMA may have thereunder or otherwise, the LOA or the Development Agreement, as the case may be, shall be liable to be terminated without DMA being liable in any manner whatsoever to the Selected Bidder or Developer for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated prior to the Bid Due Date. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from COD of the Project.

This RFQP is not transferable.

Any award of Concession pursuant to this RFQP shall be subject to the terms of Bidding Documents.

Change in composition of the consortium

No change in the Consortium members is allowed once the Bids have been submitted till the selection of the Developer.

Change of Ownership

By submitting the Bid, the Bidder acknowledges that it was qualified and short-listed on the basis of Financial Capacity of the those Consortium Members who shall, during the agreement period of the Project, hold equity share capital representing not less than:

- (i) 26% (twenty six percent) of the subscribed and paid up equity of the SPV; and;
- (ii) 5% (Five percent) of the Total Project Cost specified in the Concession Agreement.

The Bidder further acknowledges and agrees that the aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the Development Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Development Agreement, be deemed to be a breach of the Development Agreement and dealt with as such thereunder. For the avoidance of doubt, the provisions of this Clause 2.6.1 shall apply only when the Bidder is a Consortium.

By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in control of a Consortium Member or an Associate whose Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and in accordance with the RFQP, the Bidder shall be deemed to have knowledge of the same and shall be required to inform DMA forthwith along with all relevant particulars about the same and DMA may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the Development Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Development Agreement, be deemed to be a breach of the Development Agreement, and the same shall be liable to be terminated without DMA being liable in any manner whatsoever to the Developer. In such an event, notwithstanding anything to the contrary contained in the Development Agreement, DMA shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to DMA under the Bidding Documents and/ or the Development Agreement or otherwise

Number of Bids and costs thereof

No Bidder shall submit more than one Bid for the Project. A Bidder applying individually or as a member of a Consortium shall not be entitled to submit another Bid either individually or as a member of any Consortium, as the case may be.

The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. DMA will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

*Deleted**Acknowledgement of the Bidders*

It shall be deemed that by submitting a Bid, the Bidder has:

- a. made a complete and careful examination of the Bidding Documents;
- b. received all relevant information requested from DMA;
- c. accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of DMA relating to any of the matters referred to in Clause 2.8.1 above;
- d. satisfied itself about all matters, things and information including matters referred to in Clause 2.8.1 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder;
- e. acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.8.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from DMA, or a ground for termination of the Development Agreement by the Developer;
- f. acknowledged that it does not have a Conflict of Interest; and
- g. agreed to be bound by the undertakings provided by it under and in terms hereof

DMA shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFQP, the Bidding Documents or the Bidding Process, including any error or mistake therein or in any information or data given by DMA.

Verification and disqualification

Notwithstanding anything contained in this RFQP, DMA reserves the right to accept or reject any Bid and to annul or modify the Bidding Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefor. In the event that DMA rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

Right to accept or reject any or all Bids

Notwithstanding anything contained in this RFQP, DMA reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFQP or the Bidding Documents and the Bidder shall, when so required by DMA, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by DMA shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of DMA thereunder.

DMA reserves the right to reject any Bid and appropriate the Bid Security if:

- a) at any time, a material misrepresentation is made or uncovered, or
- b) the Bidder does not provide, within the time specified by DMA, the supplemental information sought by DMA for evaluation of the Bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Member may be disqualified / rejected. If such disqualification / rejection occur after the Bids have been opened and the Lowest Bidder gets disqualified / rejected, then DMA reserves the right to:

- a) invite the remaining Bidders to submit their Bids in accordance with Clauses 4.5.9; or
- b) take any such measure as may be deemed fit in the sole discretion of DMA, including annulment of the Bidding Process.

In case it is found during the evaluation or at any time before signing of the Development Agreement or after its execution and during the period of subsistence thereof, including the Concession thereby granted by DMA, that one or more of the qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Developer either by issue of the LOA or entering into of the Development Agreement, and if the Selected Bidder has already been issued the LOA or has entered into the Development Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFQP, be liable to be terminated, by a communication in writing by DMA to the Selected Bidder or the Developer, as the case may be, without DMA being liable in any manner whatsoever to the Selected Bidder or Developer. In such an event, DMA shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to DMA under the Bidding Documents and/ or the Development Agreement, or otherwise.

B. DOCUMENTS

Contents of the RFQP

This RFQP comprises the Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.13.

Section 1	INTRODUCTION
Section 2	INSTRUCTIONS TO BIDDERS
Section 3	EVALUATION OF BIDS
Section 4	CRITERIA FOR EVALUATION OF BIDS
Section 5	FRAUD AND CORRUPT PRACTICES
Section 6	PRE-BID CONFERENCE
Section 7	MISCELLANEOUS

APPENDICES:

Appendix 1-Schedule of Bidding Process

Appendix 2-Format for Covering Letter cum Project Undertaking

Appendix 3-Format for Price Bid

Appendix 4-Details of the Bidder

Appendix 5-Format for Technical Capacity of the Bidder

Appendix 6-Format for Financial Capacity of the Bidder

Appendix 7-Format for Details of Eligible Projects

Appendix 8-Format for Statement of Legal Capacity

Appendix 9-Power of Attorney for Signing of Bid

Appendix 10-Power of Attorney for Lead Member of Consortium

Appendix 11-Joint Bidding Agreement

Appendix 12-Bank Guarantee for Bid Security

Appendix 13 – Non Collusion Certificate

The draft Development Agreement provided by DMA as part of the Bidding Documents shall be deemed to be part of this RFQP.

Clarifications

Bidders requiring any clarification on the RFQP Document may notify DMA in writing by speed post/ courier/ special messenger and by e-mail in accordance with Clause 1.2.11. They should send in their queries before the date specified in the schedule of Bidding Process contained in Clause 1.3. DMA shall endeavour to respond to the queries within the period specified therein, but no later than 10 (ten) days prior to the Bid Due Date. The responses will be sent by e-mail. DMA will forward all the queries and its responses thereto, to all purchasers of the RFQP without identifying the source of queries.

DMA shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, DMA reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring DMA to respond to any question or to provide any clarification.

DMA may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by DMA shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by DMA or its employees or representatives shall not in any way or manner be binding on DMA.

To facilitate evaluation of Bidders, DMA may, at its sole discretion, seek clarifications from any Bidder regarding its Bid. Such clarification(s) shall be provided within the time specified by DMA for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

If a Bidder does not provide clarifications sought under Clause 2.12.4 above within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, DMA may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of DMA.

Amendment of Bidding Documents

At any time prior to the Bid Due Date, DMA may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the bidding documents by issuance of addenda.

Any Addendum issued shall be part of the Bidding Document and shall be available on the website or sent to the bidders

In order to afford the Bidders a reasonable time for taking an Addendum into account for preparing their bids, or for any other reason, DMA may, in its sole discretion, extend the Bid Due Date.

C. PREPARATION AND SUBMISSION OF BIDS

Language

The Bid and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Bidders with the Bid may be in any other language provided that they are accompanied by translations of all the pertinent passages in the English language, duly authenticated and certified by the Bidder. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Bid, the English language translation shall prevail.

Preparation of Bid

The Bidder shall provide all the information sought under this RFQP. DMA will evaluate only those Bids that are received in the required formats and complete in all respects. Incomplete and /or conditional Bids shall be liable to rejection.

Format and Signing of Bid

The Bidder shall prepare 1 (one) original set of the Bid (together with the documents required to be submitted pursuant to this RFQP) and clearly marked as "ORIGINAL". In addition, the Bidder shall submit 1 (one) copy of such Bid and documents, which shall be marked as "COPY". The Bidder shall also provide 2 (two) soft copies thereof on a Compact Disc (CD). In the event of any discrepancy between the original and the copy, the original shall prevail.

The Bid and its copy shall be typed or written in indelible ink. It shall be signed by the authorised signatory of the Bidder who shall also initial each page of the Bid (including each Appendix and Annex) in blue ink. In case of printed and published documents, only the cover shall be initialled. All the alterations, omissions, additions or any other

amendments made to the Bid shall be initialled by the person(s) signing the Bid. The Bid shall contain page numbers and shall be bound together in a manner that does not allow replacement of any page.

Sealing and Marking of Bids

The Bidder shall submit the Bid in the format specified at Appendix-2 and seal it in an envelope and mark the envelope as “BID”. The Bidder shall seal the original and the copy of the Bid, together with their respective enclosures, in separate envelopes duly marking the envelopes as “ORIGINAL” and “COPY”. The envelopes shall then be sealed in an outer envelope which shall also be marked in accordance with Clauses 2.17.2 and 2.17.3.

The following 2(two) envelopes shall be submitted by the bidder:

a) Envelope I: Qualification Bid

i.) Covering Letter cum Project undertaking in the prescribed format (Appendix 2);
ii.) Details of Bidders as set out in Appendix 4
iii.) Completed format of Technical Capacity of the Bidder as in Appendix 5
iv.) Completed format of Financial Capacity of the Bidder as in Appendix 6
v.) Statement of Eligible Projects as per Appendix 7
vi.) Statement of Legal Capacity in terms of Appendix 8
vii.) Power of Attorney for signing the Bid as per the format at Appendix 9
viii.) if applicable, the Power of Attorney for Lead Member of Consortium as per the format at Appendix 10 ;
ix.) Joint Bidding Agreement, in case of a Consortium, substantially in the format at Appendix 11 ;
x.) Bid Security in the form of Bank Guarantee in the form of a Bank Guarantee as per Appendix 12
xi.) Copy of Memorandum and Articles of Association, if the Bidder/ Consortium member is a body corporate;
xii.) Copies of Bidder's duly audited balance sheet and profit and loss account for the preceding three years;
xiii.) A copy of the Development Agreement with each page initialled by the person signing the Bid in pursuance of the Power of Attorney referred to in sub-clause (vii) hereinabove.
xiv.) Attested copy of the receipt of the payment in the form of Demand Draft (DD) towards the cost of RFQP Document
xv.) Non-Collusion Certificate as per Appendix 13 .
xvi.) Client completion certificate/Statutory Auditor Certificate for buildings constructed using the proposed construction technology.
xvii.) Certified copy of the certificate issued by the institutions
xviii.) Documents as per guidelines provided in Clause 4.3.1 of this RFQP Document.

b) Envelope II: Price Bid**i.) Price Bid as per format set out in Appendix 3.**

In case, the Bidders intends to submit Bid for more than one technology then separate Price Bid shall be submitted for each such construction technology in separate envelopes.

The envelopes should also clearly mention the priority of the technology. The technology with the highest priority and meeting the criteria for technical capacity set out in 4.3.3 shall be opened and evaluated. The Price Bid of other proposed technologies shall be returned unopened.

Each of the envelopes shall clearly bear the following identification:

**Bid for “RFQP for
CONSTRUCTION OF 40000 E.W.S. DWELLING UNITS ON HYBRID ANNUITY
MODEL ON PPP BASIS UNDER VERTICAL-3 OF PMAY – HOUSING FOR ALL 2022
(URBAN) IN URBAN AREAS IN JHARKHAND”**

and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand corner of each of the envelopes.

Each of the envelopes shall be addressed to:

ATTN. OF:
DIRECTOR OF MUNICIPAL ADMINISTRATION
ADDRESS: 3RD FLOOR, FFP BUILDING DHURWA, RANCHI - 834004
TELEPHONE NO: 0651-2401955, 2401182 (FAX)
E-MAIL ADDRESS:- director.ma.goj@gmail.com

If the envelopes are not sealed and marked as instructed above, DMA assumes no responsibility for the misplacement or premature opening of the contents of the Bid and consequent losses, if any, suffered by the Bidder.

Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

Bid Due Date

Bids should be submitted before 1500 hours IST on the Bid Due Date at the address provided in Clause 2.17.3 in the manner and form as detailed in this RFQP. A receipt thereof should be obtained from the person specified at Clause 2.17.3

DMA may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.13 uniformly for all Bidders.

Late Bids

Bids received by DMA after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

Modifications/Substitution/Withdrawal of Bids

The Bidder may modify, substitute or withdraw its Bid after submission, provided that written notice of the modification, substitution or withdrawal is received by DMA prior to the Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date.

The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.17, with the envelopes being additionally marked “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.

Any alteration/ modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by DMA, shall be disregarded.

Rejection of Bids

Notwithstanding anything contained in this RFQP, DMA reserves the right to reject any Bid and to annul or modify the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefore. In the event that DMA rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

DMA reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any Bid without assigning any reasons.

Validity of bids

The bids shall be valid for a period of not less than 180 (one hundred and twenty) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and DMA

Confidentiality

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising DMA in relation to, or matters arising out of, or concerning the Bidding Process. DMA will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. DMA may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or DMA or as may be required by law or in connection with any legal process.

Correspondence with the Bidder

Save and except as provided in this RFQP, DMA shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

D. BID SECURITY***Bid Security***

The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clause 1.2.9 hereinabove in the form of a bank guarantee issued by a nationalized bank, or a Scheduled Bank in India having a net worth of at least Rs. 1000 crore (Rupees One Thousand Crore only), in favour of the DMA in the format at Appendix-12 (the "Bank Guarantee") and having a validity period of not less than 180 (one hundred eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between DMA and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.

Bid Security can also be in the form of a demand draft issued by one of the Nationalized/Scheduled Banks in India in favour of the DMA, payable at Ranchi (the "Demand Draft"). DMA shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.

Any Bid not accompanied by the Bid Security shall be summarily rejected by DMA as non-responsive.

Save and except as provided in Clauses 1.2.9 above, the Bid Security of unsuccessful Bidders will be returned by DMA, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding process is cancelled by DMA, and in any case within 60 (sixty) days from the Bid Due Date. Where Bid Security has been paid by demand draft, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to DMA give the name and address of the person in whose favour the said demand draft shall be drawn by DMA for refund, failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given on the Bid.

The Selected Bidder's Bid Security will be returned, without any interest, upon the Developer signing the Development Agreement and furnishing the Performance Security in accordance with the provisions thereof. DMA may, at the Selected Bidder's option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the Development Agreement.

DMA shall be entitled to forfeit and appropriate the Bid Security as Damages inter alia in any of the events specified in Clause 2.25.7 herein below. The Bidder, by submitting its Bid pursuant to this RFQP, shall be deemed to have acknowledged and confirmed that DMA will suffer loss and damage on account of withdrawal of its Bid or for any other

default by the Bidder during the period of Bid validity as specified in this RFQP. No relaxation of any kind on Bid Security shall be given to any Bidder.

The Bid Security shall be forfeited as Damages without prejudice to any other right or remedy that may be available to DMA under the Bidding Documents and/ or under the Development Agreement, or otherwise, if

- a) a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Section 5 of this RFQP;
- b) a Bidder withdraws its Bid during the period of Bid validity as specified in this RFQP and as extended by mutual consent of the respective Bidder(s) and DMA;
- c) the Selected Bidder fails within the specified time limit –
 - i. to sign and return the duplicate copy of LOA; or
 - ii. to sign the Development Agreement; or
 - iii. to furnish the Performance Security within the period prescribed therefor in the Development Agreement.

the Selected Bidder, having signed the Development Agreement, commits any breach thereof prior to furnishing the Performance Security.

EVALUATION OF BIDS*Opening and Evaluation of Bids*

DMA shall open the Bids at 1530 hours IST on the Bid Due Date, at the place specified in Clause 2.17.3 and in the presence of the Bidders who choose to attend.

Bids for which a notice of withdrawal has been submitted in accordance with Clause 2.20 shall not be opened.

DMA will subsequently examine and evaluate Bids in accordance with the provisions set out in Section 2, 3 and 4.

Bidders are advised that qualification of Bids will be entirely at the discretion of DMA. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.

Any information contained in the Bid shall not in any way be construed as binding on DMA, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.

DMA reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Bid(s) without assigning any reasons.

To facilitate the evaluation of Bids, DMA may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

Test of responsiveness

Prior to evaluation of Bids, DMA shall determine whether each Bid is responsive to the requirements of the RFQP. A Bid shall be considered responsive only if:

- a. it is received as per format at Appendix 2.
- b. it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.18;
- c. it is signed, sealed, bound together in hard cover, and marked as stipulated in Clause 2.17;
- d. it is accompanied by the Power(s) of Attorney as specified in Clause 2.3.3 and in the case of a Consortium, the Power of Attorney as specified in Clause 2.3.3;
- e. it contains all the information (complete in all respects) as requested in this RFQP Document (in formats as those specified);
- f. it contains copy of the receipt for payment made towards the cost of the RFQP Document;
- g. it is accompanied by the Joint Bidding Agreement (for Consortium), specific to the Project, as stipulated in Clause 2.3.4 (h);

- h. it is accompanied by the Bid Security as specified in Clause 2.25;
- i. it contains client completion certificate/Statutory Auditor for buildings constructed using the proposed construction technology.
- j. it contains certified copy of the certificate issued by the institution as per Clause 2.3.1
- k. it does not contain any condition or qualification; and
- l. it is not non-responsive in terms hereof.

DMA reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by DMA in respect of such Bid. Provided, however, that DMA may, in its discretion, allow the Bidder to rectify any infirmities or omissions if the same do not constitute a material modification of the bid.

Clarifications

To facilitate evaluation of Bids, DMA may, at its sole discretion, seek clarifications from any Bidder regarding its Bid such clarification(s) shall be provided within the time specified by DMA for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

If any Bidder does not provide clarifications sought under Clause 3.3.1 above within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, DMA may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of DMA.

Qualification and Bidding

Short-Listing and Notification

DMA would announce a list of Qualified Bidders after the Qualification evaluation. Only the Bidders who qualify under the Qualification Stage would be eligible for Price Bid Stage Evaluation. DMA will not entertain any query or clarification from the Bidder who could not be qualified under this stage.

Opening of Price Bids

Price bids of only those Bidders who are qualified after the Qualification Stage shall be opened by DMA.

Proprietary data

All documents and other information supplied by DMA or submitted by a Bidder to DMA shall remain or become the property of the DMA. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. DMA will not return any Bid or any information provided along therewith. The provisions of this Clause 3.4.4 shall also apply mutatis mutandis to Bids and all other documents submitted by the Bidders, and DMA will not return to the Bidders any Bid, document or any information provided along therewith.

Correspondence with the Bidder

Save and except as provided in this RFQP, DMA shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid.

CRITERIA FOR EVALUATION***Financial Capacity Evaluation***

Only those Bidders who meet the Qualification Criteria specified in Clause 3.2 shall qualify for evaluation under Clause 4.1. Bids of firms/consortia who do not meet this criteria shall be rejected.

Financial information for purposes of evaluation

The Bidder shall have a minimum Net Worth and Average Annual Turnover as specified in Clause 2.3.1 (B)

$$\text{Aggregate Turnover} = \text{Annual Turnover for Financial Year 1} + \text{Annual Turnover for Financial Year 2} + \text{Annual Turnover for Financial Year 3}$$

$$\text{Average Annual Turnover} = \text{Aggregate Turnover} / 3$$
Illustration:

In case the annual accounts for the latest financial year are not audited and therefore the Bidder cannot make it available, the Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the Audited Annual Reports for 3 (Three) years preceding the year for which the Audited Annual Report is not being provided.

The Bidder must establish the minimum Net Worth and average Turnover specified in Clause 2.3.1 (B), and provide details as per format at Appendix 6.

Qualification Evaluation

For demonstrating technical capacity and experience, DMA would invite the Bidder whose Bid is found to be responsive as per Clause 3.2 and meeting the Financial Capability criteria to make a presentation to DMA, which would be evaluated as follows;

For the purpose of evaluation the following shall apply:

SN	Description	Marking Scale	Max Marks
Technical Capacity			
1.	Assessment of Technology (Power point presentation)	This would be evaluated based on the presentation made by the Bidder.	10
2.	Constructed area completed in India or outside India using proposed technology during last 10 years (after 01.04.2007) (The project should have been started and completed within last 10 years) <i>Note: Valid documents should be furnished in this regard like project completion certificates, etc. in support of claim.</i>	(i) Upto 2,00,000 square meters- 5 marks (ii) Every addition of 50,000 square meters to above 2,00,000 square meters—1 mark each, subject to maximum of 15 marks	20
3.	Technical Experts (Team) proposed for this project	Minimum 5 Senior level technical experts having experience of 15 (fifteen) years in construction industry with experience in construction of minimum 1,00,000 square meter using the proposed technology. (Attach CV to be attested by Company Authorities.)	10
4.	Number of location wise projects started and completed in India or outside India using proposed technology during last 10 years (after 01.04.2007) with minimum 50000 sq mt in a single location and G+4 or more,	1 marks for each project, subject to maximum of 10 marks	10
Max. Marks for Technical Capacity			50

The composite score shall be the arithmetic sum of the marks /scores assigned to the Bidders under each of the parameters listed Clause 4.3.1. DMA would request the Bidder to make a visual presentation on the Technical Bid. The marks/score so assigned by DMA or its Consultant(s) or Advisor(s) shall be final and binding on the Bidder. For the avoidance of doubt, it is hereby explicitly mentioned that the features and other aspects claimed by the Selected Bidder during Presentation shall be made part of the Development Agreement, and strict adherence to the same should be ensured. The Developer shall be required to prepare a Detailed Project Report detailing technical features of the proposed Project. The Detailed Project Report shall contain a Structural Stability Certificate from any of the institutes mentioned in Clause 2.3.1. The cost for the same shall be borne by the Developer.

The Bidders who scores minimum 35 marks in technical capacity and qualify the Financial Capacity criteria would be deemed to be Qualified Bidder.

Evaluation Process

DMA reserves the right to reject the Bid of a Bidder without evaluating the Bid and opening the Price Bid, if Bid is not responsive in terms of Clause 3.2.1. As part of Qualification Stage, the Qualification Submissions as submitted by the Bidders, shall be checked for eligibility, technical capability, financial capability, bid security and other such compliances with the requirements of the RFQP Document.

Based on evaluation of Qualification Bids, DMA would release a list of Qualified Bidders who meet the qualification criteria set out in this RFQP Document.

The evaluation of Price Bid shall be taken up only after meeting the minimum score as mentioned in Clause 4.3.3 in the Technical Capacity requirements in terms of this RFQP Document.

DMA shall intimate a date for opening of Price Bid to all Qualified Bidders and invite them for opening of the Price Bids. Attendance to such opening of Price Bids is not mandatory. However, DMA shall not entertain any claim of whatsoever nature in case a Bidder does not attend the meeting for opening of Price Bids of Qualified Bidders.

Evaluation of Price Bids

In Price Bid Stage, the Price Bid of all the Qualified Bidders who pass the Qualification Bid Stage evaluation in terms of Clause 3.2.1 and 4.3.1 shall be opened in the presence of the Bidders' representatives who choose to attend. The Bidders' representatives who are present shall be required to sign and record their attendance.

The Bidders are required to submit Price Bid in the format set out in Appendix 3. The Bidders shall quote Rupees Per Square Feet Cost of the dwelling unit (referred to as the "Construction Rate") and rate of interest (maximum rate of interest can be Base Rate of State Bank of India as on the Bid Due Date) on the amount to be paid on the unpaid amounts by DMA to the Developer.

The payment terms to the Developer per dwelling unit shall be as follows:

On Handover of completed Project	<ul style="list-style-type: none"> Cost of one dwelling unit less the Government of India and Government of Jharkhand Share amounting to Rs. 3.00 lakhs (Rupees Three Lakhs Only) by the beneficiary (i.e. to whom the dwelling unit would be allotted)
Subsequent to the Project Completion	<ul style="list-style-type: none"> An amount of 3 lakhs (The Government of Jharkhand Share of Rs. 1,50,000/- (+Government of India share 1,50,000/-Only) plus the interest (based on the interest rate quoted by the Selected Bidder) shall be payable in 8 (eight) equated half yearly instalments ("Instalment Amount") payable in May and October every year, starting 3 months after the completion of any project.

Construction Cost shall be defined as the cost of construction of dwelling units.

The Bidders for the Project shall quote the Rupees Per Square Feet cost of the dwelling units (“Unit Cost”). The Bidder shall also have to quote the interest rate expected from DMA for Instalment Amount as mentioned in S.No. 2 of clause 4.5.3 (“Interest Rate”). The Bids of the Bidders shall then be evaluated on the Present Value (“PV of Dwelling Unit Cost”).

The PV of Dwelling Unit Cost shall be evaluated as follows:

$$\text{PV of Dwelling Unit Cost} = \frac{(\text{Unit Cost} \times 306^* - \text{Rs. } 300,000)}{\text{Present Value of 8 instalments of Instalment amount discounted at the rate of 12\% per annum}}$$

*306 is approximate area of dwelling unit in square feet

The quote of the Bidders having the Lowest PV of Dwelling Unit Cost shall be ranked L1 as mentioned in the table below:

Name of the Bidder	Price Bid	Rank
	Lowest PV of Dwelling Unit Cost	L1
	Second PV of Dwelling Unit Cost	L2
	Third PV of Dwelling Unit Cost	L3

Bidders would be ranked in the ascending order of PV of Dwelling Unit Cost as calculated above. For example, the Bidder having the lowest PV of Dwelling Unit Cost would be ranked “L1”, the bidder having the quote next lowest PV of Dwelling Unit Cost, ranked “L2” and so on, set out in the table below:

Subject to the provisions of Clause 2.10.2, the Qualified Bidder who has the quotes the PV of Dwelling Unit Cost shall be declared as the preferred bidder (the “Preferred Bidder”) for the Project in terms of the process set out in the following paragraphs.

In the event that two or more Bidders, quote the Unit Cost and the Interest rate in such a manner that the PV of Dwelling Unit Cost as arrived by DMA is the same (the “Tie Bidders”) for the Project, DMA may:

- (i) invite fresh Bids from the two or more Bidders who have quoted the same lowest Unit Cost provided that the Bidders will not be allowed to quote more than the amounts already quoted;**

OR

- (ii) take any such measure as it may be deemed fit in its sole discretion, including annulment of the Bidding Process.**

Upon acceptance of the Bid of the Preferred Bidder, DMA shall declare the Preferred Bidder as the “Selected Bidder”.

Notification

DMA will notify the Selected Bidder by facsimile and by a draft Letter of Acceptance as set out in draft Development Agreement that its Bid has been accepted.

Acknowledgement of Letter of Acceptance and Execution of Development Agreement

After selection, a Letter of Acceptance (the “LOA”) shall be issued, in duplicate, by DMA to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, DMA may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA, and the next eligible Bidder may be considered.

After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Developer to execute the Development Agreement within the period prescribed in Clause 1.3. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Development Agreement.

DMA will promptly notify other Bidders that their Bids have been unsuccessful and their Bid Security will be released as promptly as possible upon signing of the Development Agreement with the Selected Bidder.

Incorporation of Special Purpose Company

The Selected Bidder shall have to form an appropriate Special Purpose Company, incorporated under the Indian Companies Act, 2013 (the “SPC”), to execute the Development Agreement and implement the Project.

FRAUD AND CORRUPT PRACTICES

The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Development Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Development Agreement, DMA may reject a Bid, withdraw the LOA, or DMA may terminate the Development Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Developer, as the case may be, if it determines that the Bidder or Developer, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, DMA shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to DMA under the Bidding Documents and/ or the Development Agreement, or otherwise.

Without prejudice to the rights of DMA under Clause 5.1.1 hereinabove and the rights and remedies which DMA may have under the LOA or the Development Agreement, or otherwise if a Bidder or Developer, as the case may be, is found by DMA to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Development Agreement, such Bidder or Developer shall not be eligible to participate in any tender or RFQP issued by DMA during a period of 2 (two) years from the date such Bidder or Developer, as the case may be, is found by DMA to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

For the purposes of this Section 5, the following terms shall have the meaning hereinafter respectively assigned to them:

- a) **“corrupt practice”** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of DMA who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the

LOA or has dealt with matters concerning the Development Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of DMA, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under the Clause 2.4.4 of this RFQP, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Development Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Development Agreement, who at any time has been or is a legal, financial or technical adviser of DMA in relation to any matter concerning the Project;

- b) **“fraudulent practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
- c) **“coercive practice”** means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
- d) **“unfair practice”** means (i) establishing contact with any person connected with or employed or engaged by DMA with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- e) **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

PRE-BID CONFERENCE

Pre-Bid Conference(s) of the Bidders shall be convened at the designated date, time and place.

Only those persons who have purchased the RFQP document shall be allowed to participate in the Pre-Bid Conference(s). A maximum of two representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.

During the course of Pre-Bid Conference(s), the Bidders will be free to seek clarifications and make suggestions for consideration of DMA. DMA shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

MISCELLANEOUS

The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts in Jharkhand in which the DMA has its headquarters shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.

DMA, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;

- a. suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
- b. consult with any Bidder in order to receive clarification or further information;
- c. retain any information and/ or evidence submitted to DMA by, on behalf of, and/ or in relation to any Bidder; and/ or
- d. independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.

It shall be deemed that by submitting the Bid, the Bidder agrees and releases DMA, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

APPENDICES

APPENDIX-1

Schedule of Bidding Process

Sr. No	Activity Description	Date
1.	Release of RFQP Document	
2.	Last Date of Issue of RFQP Document	
3.	Last date for receiving queries	
4.	Pre-Bid conference	
5.	Reply to Pre-bid queries, if any	
6.	Bid Due Date	
7.	Opening of Bid	
8.	Announcement of Qualified Bidders	To be intimated separately
9.	Opening of Price Bids	To be intimated separately
10.	Letter of Acceptance (LOA)	To be intimated separately
11.	Signing of Development Agreement	Within 45 days from the issuance of LOA

APPENDIX-2

Format for Covering Letter cum Project Undertaking

To,

Director,
Directorate of Municipal Administration,
Department of Urban Development & Housing,
Government of Jharkhand
3rd Floor, FFP building, Opp. Project Building, Dhurwa,
Ranchi 834 004,
Jharkhand

**Sub: Construction Of 40000 E.W.S. Dwelling Units on Hybrid Annuity Model On Ppp
Basis under Vertical-3 Of Pmay – Housing For All 2022 (Urban) In Urban Areas In Jharkhand**

Dear Sir,

With reference to your RFQP document dated,

1. I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Project.
2. The Bid is unconditional and unqualified.
3. I/ We acknowledge that DMA will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Developer for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
4. This statement is made for the express purpose of our selection as Developer for the development, construction, operation and maintenance of the aforesaid Project.
5. I/ We shall make available to DMA any additional information it may find necessary or require to supplement or authenticate the Bid.
6. I/ We acknowledge the right of DMA to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
7. I/ We certify that in the last three years, we/ any of the Consortium Members[£] or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
8. I/ We declare that:
 - (a) I/ We have examined and have no reservations to the Bidding Documents, including any Addendum issued by DMA; and

[£] If the Bidder is not a Consortium, the provisions applicable to Consortium may be omitted.

- (b) I/ We do not have any conflict of interest in accordance with Clauses 2.2.1 (c) and 2.4.4 of the RFQP document; and
 - (c) I/ We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 5.1.3 of the RFQP document, in respect of any tender or Request for Qualification cum Proposals issued by or any agreement entered into with DMA or any other public sector enterprise or any government, Central or State; and
 - (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 5 of the RFQP, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and
9. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.21 of the RFQP document.
 10. I/ We believe that we/ our Consortium satisfy(s) the Net Worth criteria and the Average Annual Turnover criteria and meet(s) the requirements as specified in the RFQP document.
 11. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium submitting a Bid for the Project.
 12. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
 13. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
 14. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our directors/ managers/ employees.
 15. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate DMA of the same immediately.
 16. I/We further certify that we/any Member of the Consortium or any of our/ their Association are not barred by the Central Government/State Government or any entity controlled by it, from participation in any project (DBFOT or otherwise), and no bar subsists as on date of Bid.
 17. I/ We acknowledge and undertake that if our Consortium gets qualified and short-listed on the basis of Financial Capacity of its Member who shall, for the period specified in the Concession Agreement, hold equity share capital not less than: (i) 26% (twenty six percent) of the subscribed and paid up equity of the SPV; (ii) 5% (Five percent) of the Total Project Cost specified in the Concession Agreement;
 18. I/ We acknowledge and agree that in the event of a change in control of an Associate whose Financial Capacity was taken into consideration for the purposes of short-listing and qualification under and in accordance with the RFQP, I/We shall inform DMA forthwith along with all relevant particulars and DMA may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Development Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Development Agreement shall be liable to be terminated without DMA being liable to us in any manner whatsoever.

19. I/ We understand that the Selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956/2013, or shall incorporate as such prior to execution of the Development Agreement.
20. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by DMA in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
21. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Development Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
22. I/ We have studied all the Bidding Documents carefully and also surveyed the site. We understand that except to the extent as expressly set forth in the Development Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by DMA or in respect of any matter arising out of or relating to the Bidding Process including the award of Concession.
23. I/ We offer a Bid Security of Rs _____ (_____ in words) to DMA in accordance with the RFQP Document.
24. The Bid Security in the form of a Demand Draft/ Bank Guarantee (strike out whichever is not applicable) is attached.
25. I/ We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me/us or our Bid is not opened or rejected.
26. I/ We certify that in terms of the RFQP, my/our Net Worth is Rs. (Rupees) and Average Annual Turnover (for the last 5 Financial Years) is Rs _____ (Rupees _____);
27. I/ We agree and undertake to abide by all the terms and conditions of the RFQP document.
28. { We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Developer under the Development Agreement till occurrence of Financial Close in accordance with the Development Agreement. }
29. I/ We shall keep this offer valid for 120 (one hundred and twenty) days from the Bid Due Date specified in the RFQP.

In witness thereof, I/we submit this Bid under and in accordance with the terms of the RFQP document.

Yours faithfully,

Date:

(Signature, name and designation of the Authorized signatory)

Place:

Name and seal of Bidder/Lead Member

APPENDIX-3**Format for Price Bid**

Date:

To

Director,
 Directorate of Municipal Administration,
 Department of Urban Development & Housing,
 Government of Jharkhand
 3rd Floor, FFP building, Opp. Project Building, Dhurwa,
 Ranchi 834 004,
 Jharkhand

**Re: Construction Of 40000 E.W.S. Dwelling Units on Hybrid Annuity Model On Ppp
 Basis under Vertical-3 Of PMAY – Housing For All 2022 (Urban) In Urban Areas In Jharkhand**

We are pleased to submit our Price Bid for the **CONSTRUCTION OF 40000 E.W.S. DWELLING
 UNITS ON HYBRID ANNUITY MODEL ON PPP BASIS UNDER VERTICAL-3 OF PMAY –
 HOUSING FOR ALL 2022 (URBAN) IN URBAN AREAS IN JHARKHAND**

. We have completely understood the scope of work for the Project and have reviewed all the terms and conditions of the Request for Qualification cum Proposal Document, including the draft Development Agreement, and undertake to comply, observe and abide by all the terms and conditions set out in the aforesaid documents. We hereby declare that our Price Bid is unqualified and unconditional in all respects and there are no deviations from the stated terms in the RFQP Document.

We quote an amount of Rs _____ (Rupees _____ only) as
 Per Square Feet Cost (the “Unit Cost”) and interest rate of _____ (_____ percentage) per annum
 (“Interest Rate”) for the aforesaid Project to DMA as per the terms of draft Development Agreement.

The aforesaid Per Square Feet Cost and the interest rate have been quoted by us after taking into consideration all the terms and conditions stated in the RFQP Document including draft Development Agreement, our own estimates of costs and revenues and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the Project.

.....Name of the Bidder

.....Signature of the Authorised Person

.....Name of the Authorised Person

Note:

- On the Letterhead of the Bidder or Lead Member of Consortium.
- To be signed by the Lead Member, in case of a Consortium.
- In case of difference in amount quoted in figures and words, the lower value would be considered for evaluation.

APPENDIX-4**Details of the Bidder**

1. (a) Name:
- (b) Country of incorporation:
- (c) Address of the corporate headquarters and its branch office(s), if any, in India:
- (d) Date of incorporation and/ or commencement of business:
2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Project:
3. Particulars of individual(s) who will serve as the point of contact/ communication for the Bidder:
 - a. Name:
 - b. Designation:
 - c. Company:
 - d. Address:
 - e. Telephone Number:
 - f. E-Mail Address:
 - g. Fax No.
4. Particulars of the Authorised Signatory of the Bidder:
 - a. Name:
 - b. Designation:
 - c. Company:
 - d. Address:
 - e. Telephone Number:
 - f. E-Mail Address:
 - g. Fax No.
5. In case of a Consortium:
 - (a) The information above (1-4) should be provided for all the Members of the Consortium.
 - (b) A copy of the Jt. Bidding Agreement, as envisaged in Clause 2.3.4 (h) should be attached to the Bid.
 - (c) Information regarding the role of each Member should be provided as per table below:

Sl. No.	Name of Member	Role	Percentage of equity in the Consortium
1.			
2.			
3.			

6. The following information shall also be provided for the Bidder, including each Member of the Consortium:

Name of Bidder/ member of Consortium:

No.	Criteria	Yes	No
1.	Has the Bidder/ constituent of the Consortium been barred by the [Central/ State] Government, or any entity controlled by it, from participating in any project (DBFOT or otherwise)?		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Bid?		
3.	Has the Bidder/ constituent of the Consortium paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalized due to any other reason in relation to execution of a contract, in the last three years?		

7. A statement by the Bidder and each of the Members of its Consortium (where applicable) or any of their Associates disclosing material non-performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary)

APPENDIX-5**Technical Capacity of the Bidder****A. Experience Related to the Proposed Technology**

Type of the Bidder	Project Name	Technology Used (Refer Clause 1.1.5)	Year of commencement	Year of Completion	Total Carpet Area of the Dwelling Units (sqmt)	Number of Floors (G + n) ^{\$} (No.)	Carpet area of G+4 or more floors (sqmt)
Single Entity Bidder							
Consortium							

^{\$}G=Ground Floor

n= Number of floors above Ground Floor

Note:

1. The Bidder shall submit client certificate and/or Statutory Auditor certificate giving the details related to the proposed technology, number of floors, total carpet area and the carpet area of dwelling units which is G+4. The certificate shall also contain the project cost and current status of the Project.
2. The Bidder shall also submit copy of the certification from institutes mentioned in Clause 2.3.1 A (b) and the certification shall also include the details as mentioned in 2.1.3 (A) (b) related to the Structural safety, Fire safety, Resistance against water and moisture penetration, Thermal behavior, Acoustic behavior, Durability etc.

B. Particulars of Key Personnel

Designation of Key Personnel	name	Educational Qualification	Length of Professional Experience	Present Employment	
				Name of Firm	Employed Since

C. Curriculum Vitae of Key Personnel

1. Proposed Position:
2. Name of Personnel:
3. Date of Birth:
4. Nationality:
5. Educational Qualifications:
6. Employment Record:

(Starting with present position, list in reverse order every employment held.)

7. List of projects on which the Personnel has worked

Name of Project	Description of Responsibilities

8. Details of the current assignment and the time duration for which services are required for the current assignment.

Certification:

- a. I am willing to work on the Project and I will be available for entire duration of the Project as required.
- b. I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes me, my qualification and my experience.

(Signature and name of the Key Personnel)

Place

(Signature and name of the authorized signatory of the Bidder)

Notes:

1. Use separate form for each Key Personnel
2. Each page of the CV shall be signed in ink and dated by both the Personnel concerned and by the Authorized Representative of the Bidder along with the seal of the firm.

APPENDIX-6

Format for Financial Capacity of the Bidder
(In Rs. Crore^{\$})

Bidder type ^{\$\$}	Member Code [£]	Average Annual Turnover					Net Worth ^{££}
(1)	(2)	Year 1 (3)	Year 2 (4)	Year 3 (5)	Year 4 (6)	Year 5 (7)	Year 1 (8)
Single entity Bidder							
Lead Member of Consortium							
Consortium Member 2							
Consortium Member 3							

Name & address of Bidder's Bankers:

^{\$\$}A Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Bidder may be ignored.

[£]For Member Code, Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member and OM means Other Member.

^{££}The Bidder should provide details of its own Financial Capacity or of an associate specified in Clause 2.3.7.

Instructions:

1. The Bidder/its constituent Consortium Members shall attach copies of the balance sheets, financial statements and Annual Reports for 3(three) years preceding the Bid Due Date. The financial statements shall:
 - (a) reflect the financial situation of the Bidder or Consortium Members and its/ their Associated where the Bidder is relying on its Associate's financials;
 - (b) be audited by a statutory auditor;
 - (c) be complete, including all notes to the financial statements; and
 - (d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

2. Net Cash Accruals shall mean Profit After Tax + Depreciation.
3. Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).
4. Year 1 will be the latest completed financial year, preceding the bidding. Year 2 shall be the year immediately preceding Year 1 and so on. In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.3.10.
5. In case of a Consortium, a copy of the Jt. Bidding Agreement shall be submitted in accordance with Clause 2.3.4 (h) of the RFQP document.
6. The Bidder shall provide an Auditor's Certificate specifying the Net Worth of the Bidder and the Average Annual Turnover and also specifying the methodology adopted for calculating such Net Worth and the Average Annual Turnover in accordance with Clause 2.3.2 (i) and Clause 2.3.2(ii) of the RFQP document.

APPENDIX-7**Format for Details of Eligible Projects**

Items	Particulars of the Project
<i>(1)</i>	<i>(3)</i>
Title & nature of the project	
Entity for which the project was constructed/ developed	
Location	
Project Cost	
Date of commencement of project/contract	
Date of completion/commissioning	
Whether credit is being taken for the Eligible Experience (Yes/No)	
Proposed Technology	
Carpet Area	
Number of Floors	

Instructions:

1. Bidders are expected to provide information in respect of each Eligible Project in this **Appendix**. The projects cited must comply with the eligibility criteria.
2. A separate sheet should be filled for each Eligible Project.
3. In case of projects in Categories 1 and 2, particulars such as name, address and contact details of owner/ Authority/ Agency (i.e. concession grantor, counter party to PPA, etc.) may be provided. In case of projects in Categories 3 and 4, similar particulars of the client need to be provided.
4. Provide the estimated capital cost of Eligible Project.
5. Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a consortium in respect of the same experience shall be permitted in any manner whatsoever.
6. Certificate from the Bidder's statutory auditor^{1\$} or its respective clients must be furnished as per formats below for each Eligible Project. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Bidder/ Member may provide the requisite certification.

7. In the event that credit is being taken for the Eligible Experience of an Associate, as defined in Clause 2.3.7, the Bidder should also provide a certificate in the format below:

Certificate from Statutory Auditor/ Company Secretary regarding Associate^{2§}

Based on the authenticated record of the company, this is to certify that more than 50% (fifty percent) of the subscribed and paid up voting equity of (name of the Bidder/ Consortium Member/ Associate) is held, directly or indirectly[£], by (name of Associate/ Bidder/ Consortium Member). By virtue of the aforesaid share-holding, the latter exercises control over the former, who is an Associate in terms of Clause 2.3.7 of the RFQP Document.

A brief description of the said equity held, directly or indirectly, is given below:

{Describe the share-holding of the Bidder/ Consortium Member and the Associate. In the event the Associate is under common control with the Bidder/ Consortium Member, the relationship may be suitably described and similarly certified herein.}

[§] In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary.

[§] In the event that the Bidder/ Consortium Member exercises control over an Associate by operation of law, this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.

[£] In the case of indirect share-holding, the intervening companies in the chain of ownership should also be Associates i.e., the share-holding in each such company should be more than 50% (fifty percent) in order to establish that the chain of "control" is not broken.

Date	:
Signature of the Statutory Auditor of the Bidder	:
Name of the Partner	:
Name of the Statutory Auditor Firm/Company	:
Registration Number of the Partner	:
Address of the Statutory Auditor	:
Phone Number of the Statutory Auditor Firm/Company	:
Fax Number of the Statutory Auditor Firm/Company	:

8. It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to exclusion of the relevant project in computation of score.

APPENDIX-8

Format for Statement of Legal Capacity

(To be forwarded on the letterhead of the Bidder/ Lead Member of Consortium)

Ref. Date:

To,

Director,
Directorate of Municipal Administration,
Department of Urban Development & Housing,
Government of Jharkhand
3rd Floor, FFP Building, Opp Project Building, Dhurwa,
Ranchi 834 004,
Jharkhand

Dear Sir,

We hereby confirm that we/ our members in the Consortium (constitution of which has been described in the Bid) satisfy the terms and conditions laid out in the RFQP document.

We have agreed that (insert member's name) will act as the Lead Member of our consortium.^{\$}

We have agreed that (insert individual's name) will act as our representative/ will act as the representative of the consortium on its behalf^{\$} and has been duly authorized to submit the RFQP. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of.....

^{\$}Please strike out whichever is not applicable.

Date:

APPENDIX-9**Power of Attorney for signing of Bid³**

Know all men by these presents, We..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr/ Ms (name), son/daughter/wife of and presently residing at, who is presently employed with us/ the Lead Member of our Consortium and holding the position of, as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for selection and submission of our bid for the **Construction Of 40000 E.W.S. Dwelling Units on Hybrid Annuity Model On PPP Basis under Vertical-3 Of PMAY – Housing For All 2022 (Urban) In Urban Areas In Jharkhand** proposed or being developed by the Directorate of Urban Development(the “DMA”) including but not limited to signing and submission of all Bids, bids and other documents and writings, participate in Pre-Bids and other conferences and providing information/ responses to DMA, representing us in all matters before DMA, signing and DMA execution of all contracts including the Development Agreement and undertakings consequent to acceptance of our bid, and generally dealing with DMA in all matters in connection with or relating to or arising out of our bid for the said Project and/ or upon award thereof to us and/or till the entering into of the Development Agreement with DMA. AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20.....

For.....

(Signature, name, designation and address)

Witnesses:

1.

2.

³To be submitted in original

Accepted

Notarised

(Signature, name, designation and address of the Attorney)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

APPENDIX-10

Power of Attorney for Lead Member of Consortium

Whereas the Directorate of Urban Development (the “DMA”) has invited Bids from interested parties for the **Construction Of 40000 E.W.S. Dwelling Units on Hybrid Annuity Model On PPP Basis under Vertical-3 Of PMAY – Housing For All 2022 (Urban) In Urban Areas In Jharkhand** (the “Project”).

Whereas,,,and (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Qualification cum Proposal (RFQP) and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We,having our registered office at, M/s..... having our registered office at, and having our registered office at, (hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorise M/S having its registered office at, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”). We hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the concession/contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the selection of the Consortium and submission of its bid for the Project, including but not limited to signing and submission of all Bids, bids and other documents and writings, accept the Letter of Award, participate in bidders’ and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with DMA, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s bid for the Project and/ or upon award thereof till the Development Agreement is entered into with DMA.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20....

For

(Signature, Name & Title)

For

(Signature, Name & Title)

For

(Signature, Name & Title)

(Executants)

(To be executed by all the Members of the Consortium)

Witnesses:

1.

2.

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

APPENDIX-11

Joint Bidding Agreement

(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of 20...

AMONGST

1. Limited, a company incorporated under the Companies Act, 1956/2013[¥] and having its registered office at (hereinafter referred to as the “**First Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. Limited, a company incorporated under the Companies Act, 1956/2013 and having its registered office at (hereinafter referred to as the “**Second Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. { Limited, a company incorporated under the Companies Act, 1956/2013 and having its registered office at (hereinafter referred to as the “**Third Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)}

The above mentioned parties of the FIRST, SECOND, AND THIRD PART are collectively referred to as the “**Parties**” and each is individually referred to as a “**Party**”

WHEREAS,

(A) Directorate of Municipal Administration, Department of Urban Development & Housing, Government of Jharkhand, (hereinafter referred to as the “**DMA**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited Bids (the “**Bids**”) by its Request for Qualification cum Proposal No. dated (the “**RFQP**”) for **Construction Of 40000 E.W.S. Dwelling Unitson Hybrid Annuity Model On PPP Basis under Vertical-3 Of PMAY – Housing For All 2022 (Urban) In Urban Areas In Jharkhand** (the “**Project**”).

(B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the “**RFQP**” document and other bid documents in respect of the Project, and

(C) It is a necessary condition under the “**RFQP**” document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Bid.

NOW IT IS HEREBY AGREEDas follows:

1. Definitions and Interpretations

[¥]A Bidder who is registered abroad may substitute the words, viz “a company registered under the Companies Act, 1956/2013” by the words, viz “a company duly organised and validly existing under the laws of the jurisdiction of its incorporation”. A similar modification may be made in Recital 2, as necessary.

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the “RFQP”

2. Consortium

2.1 The Parties do hereby irrevocably constitute a consortium (the “**Consortium**”) for the purposes of jointly participating in the Bidding Process for the Project.

2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Associates.

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the selected Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the “**SPC**”) under the Indian Companies Act, 2013 for entering into a Development Agreement with DMA and for performing all its obligations as the Developer in terms of the Development Agreement for the Project.

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

- a) Party of the First Part shall be the Lead member of the Consortium (Financial Member /Operation and Maintenance Member/ Other Member of the Consortium of the Consortium) and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Appointed Date under the Development Agreement when all the obligations of the SPC shall become effective;
- (b) Party of the Second Part shall be (Financial Member/Operation and Maintenance Member/ Other Member of the Consortium);
- (c) Party of the Third Part shall be (Financial Member/Operation and Maintenance Member/ Other Member of the Consortium);

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the “RFQP” and the Development Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Development Agreement.

6. Shareholding in the SPC

6.1 The Parties agree that the proportion of shareholding among the Parties in the SPC shall be as follows:

First Party:

Second Party:

Third Party:

6.2 The Parties undertake that a minimum of :

- (i) 26% (twenty six percent) of the subscribed and paid up equity of the SPV; and
- (ii) 5% (Five percent) of the Total Project Cost specified in the Concession Agreement.

shall, at all times during the agreement period, be held by the Parties of the First, {Second and Third} Part whose Net Worth have been reckoned for the purposes of qualification and short-listing of Bidders for the Project in terms of the “RFQP”.

6.3 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the Development Agreement.

7. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

- (a) Such Party is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- (b) The execution, delivery and performance by such Party of this Agreement has been authorized by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
 - (i) require any consent or approval not already obtained;
 - (ii) violate any Applicable Law presently in effect and having applicability to it;
 - (iii) violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;
 - (iv) violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - (v) create or impose any liens, mortgages, pledges, claims, security interests, charges or encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- (c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- (d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Associates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under this Agreement.

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the Project is achieved under and in accordance with the Development Agreement, in case the Project is awarded to the Consortium. However, in case the Consortium does not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not selected or upon return of the Bid Security by DMA to the Bidder, as the case may be.

9. Miscellaneous

- 9.1 This Joint Bidding Agreement shall be governed by laws of India.
- 9.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of DMA.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of

LEAD MEMBER by:

SECOND PART

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

(Address)

(Address)

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of

THIRD PART

(Signature)

(Name)

(Designation)

(Address)

In the presence of:

1.

Notes:

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executants (s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.

APPENDIX-12

Bank Guarantee for Bid Security

B.G. No. Dated:

1. In consideration of you,, having its office at, (hereinafter referred to as the “DMA”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of (a company registered under the Companies Act, 1956/ 2013) and having its registered office at (and acting on behalf of its Consortium) (hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), **Construction Of 40000 E.W.S. Dwelling Unitson Hybrid Annuity Model On PPP Basis under Vertical-3 Of PMAY – Housing For All 2022 (Urban) In Urban Areas In Jharkhand** for DBFT basis (hereinafter referred to as “the Project”) pursuant to the RFQP Document dated issued in respect of the Project and other related documents including without limitation the draft Development Agreement (hereinafter collectively referred to as “Bidding Documents”), we (Name of the Bank) having our registered office at and one of its branches at (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 1.2.9 of the RFQP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfillment and compliance of the terms and conditions of the Bidding Documents (including the RFQP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to DMA an amount of Rs. (Rupees only) (hereinafter referred to as the “Guarantee”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by DMA stating that the Bidder is in default of the due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of DMA is disputed by the Bidder or not, merely on the first demand from DMA stating that the amount claimed is due to DMA by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. (Rupees only).
4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between DMA and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.

5. We, the Bank, further agree that DMA shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of DMA that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between DMA and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, DMA shall be entitled to treat the Bank as the principal debtor. DMA shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to DMA, and the Bank shall not be released from its liability under these presents by any exercise by DMA of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of DMA or any indulgence by DMA to the said Bidder or by any change in the constitution of DMA or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch which shall be deemed to have been duly authorized to receive the said notice of claim.
10. It shall not be necessary for DMA to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which DMA may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealized.

11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of DMA in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorized and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. crore (Rupees crore only). The Bank shall be liable to pay the said amount or any part thereof only if DMA serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before [..... (indicate date falling 180 days after the Bid Due Date)].

Signed and Delivered by Bank

By the hand of Mr./Ms, its and authorised official.

(Signature of the Authorised Signatory)

(Official Seal)

APPENDIX-13**Non-Collusion Certificate***(on the Letter Head of Bidder/ Each Consortium Member)*

We hereby certify and confirm that in the preparation and submission of this Bid, we have not acted in concert or in collusion with any other Bidder/s and also not done any act, deed or thing which is or could be regarded as anti-competitive.

We further confirm that we have not offered nor will offer any illegal gratification in cash or kind to any person or agency in connection with the instant Bid.

Dated thisDay of, 20.....

..... Name of the Bidder

..... Signature of the Authorised Person

..... Name of the Authorised Person

Note:

- To be executed by all the Members in case of Consortium.

Annexure I

List of sites to be inserted along with area and indicative number of dwelling units to be constructed.

Directorate of Municipal Administration

Part II

Draft Development Agreement

**CONSTRUCTION OF 40000 E.W.S. DWELLING UNITS ON HYBRID
ANNUITY MODEL ON PPP BASIS UNDER VERTICAL-3 OF PMAY –
HOUSING FOR ALL 2022 (URBAN) IN URBAN AREAS IN JHARKHAND**

**DEVELOPMENT AGREEMENT FOR
CONSTRUCTION OF 40000 E.W.S. DWELLING UNITS ON HYBRID ANNUITY MODEL ON
PPP BASIS UNDER VERTICAL-3 OF PMAY – HOUSING FOR ALL 2022 (URBAN) IN URBAN
AREAS IN JHARKHAND**

THIS CONCESSION AGREEMENT is made this ___ day of _____ 201__

BY AND BETWEEN

Directorate of Municipal Administration, Department of Urban Development & Housing, Government of Jharkhand acting through _____ having its office at _____ (hereinafter referred as "DMA", which expression shall, unless the context otherwise requires, include its successors and assigns);

AND

M/S _____, a company incorporated under the Companies Act, 2013 and having its registered office at _____ (hereinafter the "**Developer**", which expression shall, unless the context otherwise requires, include its successors and permitted assigns).

WHEREAS:

- A. The Government of Jharkhand (GoJ) is keen to improve the housing infrastructure in the State of Jharkhand using new and emerging construction technologies. As a part of this effort, it is proposed to develop and establish new housing colonies or through redevelopment of existing slums in Jharkhand on the public-private partnership basis involving construction of new housing complex/s and the provision of improved and enhanced facilities and amenities.
- B. DMA has decided to implement the Project on design, build and transfer basis. The Project comprises, subject to the terms and conditions of this Agreement, the development, design, financing, construction and transfer of the Project by the Developer.
- C. Pursuant to the above, DMA undertook a transparent competitive bidding process and issued a Request for Qualification cum Request for Proposal (RFQ cum RFP) dated _____ inviting bids for the Project and selected M/s _____, as the Selected Bidder, which has since incorporated the Developer (the "**SPV**") for implementing the Project.
- D. DMA hereby grants the Concession for the Project to the Developer in accordance with the provisions hereof.
- F. The Developer acknowledges and confirms that it has undertaken a due diligence audit of all aspects of the Project including technical and financial viability, legal due diligence, demand for the Project, and on the basis of its independent satisfaction hereby accepts the Concession and agrees to implement the Project at its cost and expense in accordance with the terms and conditions of this Agreement.
- G. Selected Bidder/Developer has furnished to DMA an unconditional and irrevocable bank guarantee of Rs. _____ (Rupees _____ only) as Performance Security, within 3 (three) weeks of the date of issuance of the Letter of Acceptance to the Selected Bidder, a pre-condition to the

execution of this Agreement, and DMA has agreed to the implementation of the Project by the Developer on the terms, conditions and covenants hereinafter set forth in this Agreement.

- H. The Parties hereto are required to enter into the Agreement being these presents to record the terms, conditions and covenants of the Project.

NOW THEREFORE THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

In this Agreement, unless repugnant to the context or inconsistent therewith, the following words, phrases and expressions shall bear the meaning hereinafter respectively assigned to them:

- i) **“Affected Party”** shall have the meaning set forth in Article 12.1.
- ii) **“Agreement”** or **“Development Agreement”** means this agreement including the recitals, schedules and attachments hereto as may be amended, supplemented or modified in accordance with the provisions hereof.
- iii) **“Agreement Date”** means the date of this Agreement.
- iv) **“Applicable Laws”** means any statute, ordinance, notification, rule, regulation, judgement, order, decree, bye-law, approval, directive, guideline, policy, requirement or other governmental restriction or any similar form of decision of, or determination by, or any interpretation or having the force of law in the Republic of India and the State of Jharkhand, by any Competent Authority or instrumentality thereof, whether in effect as of the date of this Agreement or thereafter.
- v) **“Approved DPR”** means DPR submitted by the Developer and approved by DMA, subsequent to this Agreement.
- vi) **“Arbitration Act”** means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof, as in force from time to time;
- vii) **“Bid”** or **“Proposal”** means the documents in their entirety comprised in the proposal or bid submitted by the Selected Bidder, M/s _____ (including the qualification, technical and financial proposal or bid) in response to the Request for Qualification cum Request for Proposal, and accepted by DMA, with amendments and modifications, if any, pursuant to negotiations between the Parties, signed for verification by the authorised representatives of the Parties, attached hereto as Schedule 11.
- viii) **“Business Day”** means a day on which banks are generally open in Jharkhand for transaction of normal banking business.
- ix) **“Change in Law”** means occurrence of any of the following events after the execution of this Agreement:
 - (a) enactment of any new Applicable Law;
 - (b) the repeal in whole or in part (unless re-enacted with the same effect) or modification of any existing Applicable Law;
 - (c) the change in interpretation or application of any Applicable Law;
 - (d) the imposition of a requirement for a Clearance(s) (other than for cause) not required on the date of this ;
 - (e) after the date of grant of any Clearance(s), a change in the terms and conditions attaching to such Clearance (s) (other than for cause) or the attachment of any new

terms and conditions to a Clearance (s)(other than for cause); or

- (f) any Clearance (s) previously granted ceasing to remain in full force and effect, though there is no fault of or breach by a party (including a failure to renew), or if granted for a limited period, not being renewed on a timely basis on an application therefor having been duly made in good time.

For the avoidance of doubt, a change in the rate of any Tax or the imposition of a new Tax shall not constitute a Change in Law and the Parties shall be liable to bear the impact and incidence thereof at their cost and risk.

- x) **“Clearances”** means any and all permissions, clearances, licenses, permits, consents, no-objections, exemptions, registrations, filings or other authorisations of whatever nature, including without limitation environmental clearances, approvals of or from any Competent Authority required in connection with the Project and for undertaking, performing or discharging the obligations or fulfilment of the purposes contemplated by this Agreement.
- xi) **“Competent Authority”** means GoI, any state government or any governmental department, commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body, central, state, or local having jurisdiction over the Project, the Developer, the Project Assets, the Project Site and the Works or the performance of all or any of the services, obligations or covenants of Developer under or pursuant to this Agreement or any portion thereof.
- xii) **“Completion Certificate”** means certificate in respect of the Project issued by DMA in consultation with the Independent Engineer pursuant to Clause 9.6(c).
- xiii) **“Compliance Date”** shall have the meaning specified in Clause 3.3(b).
- xiv) **“Concession”** shall have the meaning ascribed thereto in Article 2.1.
- xv) **“Concession Period”** means the period specified in Article 2.
- xvi) **“Conditions Precedent”** means the conditions set out in Article 3 hereof.
- xvii) **“Consortium”** means the group of entities that have jointly submitted the proposal for the Project and have been termed as Consortium members in the SPV formed to implement the Project.
- xviii) **“Construction Completion”** shall have the meaning specified in Clause 9.5(a).
- xix) **“Construction Period”** means period specified in Schedule 5.
- xx) **“Construction Works”** means the works and things necessary for achieving construction completion of the Project Facilities in accordance with the provisions of this Agreement, including Commercial Operations in case of the Project.
- xxi) **“Damages”** shall have the meaning set forth in Clause 1.2(q);
- xxii) **“Debt Due”** means the aggregate of the following sums expressed in Indian Rupees outstanding and payable to the Lenders in respect of the Project under the Financing Documents:
- The principal amount of the debt provided by the Lenders under the Financing Documents for financing the Project which is outstanding as on the Transfer Date, excluding any part of the principal (of such debt) that had fallen due for repayment one year prior to the Transfer Date unless such repayment had been rescheduled with the prior consent of DMA; and
 - All accrued interest, financing fee and charges payable on or in respect of the debt referred to in the sub-clause (a) above up to the date preceding the Transfer Date but excluding any interest or charges that had fallen due one year prior to the Transfer Date, and penal interest or charges payable under the Financing Documents to the Lenders.
- xxiii) **“Developmental Standard(s)”** means the minimum parameters and standards to be achieved by the Developer in the construction, development of the Project in accordance with Approved DPR, Building byelaws, internationally sound engineering practices, National Building Code

- and Applicable Law and / or as determined by the relevant Governmental Authority.
- xxiv) **“DPR”** includes the conceptual and detailed designs, working drawings and engineering, plans, backup technical information required for the Project Facilities and all calculations, samples, patterns, models, specifications and other technical information relating thereto.
- xxv) **“Directive”** means any present or future requirement, instruction, direction, order, rule or regulation issued by any Competent Authority which is legally binding or which is notified/directive issued by DMA to the Developer, and any modification, extension or replacement thereof from time to time in force.
- xxvi) **“Dispute”** shall have the meaning set forth in Article 16.
- xxvii) **“Dispute Resolution Procedure”** means the procedure for resolution of disputes set forth in Article 16.
- xxviii) **“Easementary Rights”** means all easements, reservations, right of way and other similar purposes, or zoning or other restrictions as to the use of the real property, which are necessary or appropriate for the conduct of activities of the Developer related to the Project Facilities or which customarily exist on properties which are similarly situated and are engaged in similar activities.
- xxix) **“Encumbrances”** means any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other obligation or restriction and shall include physical or legal obstructions or encroachments on the Project Facilities or Third Party claims or rights of any kind attaching thereto.
- xxx) **“Equity”** means the sum expressed in Indian Rupees representing the equity share capital of the Developer for the Project and shall include the funds advanced by any Consortium Member or by any of the shareholders of the Developer for meeting the equity component of the Total Project Cost. Provided, however, that for the purposes of computing Termination Payments under this Agreement, Equity shall be reckoned as an amount that is arrived at after excluding from the equity share capital of the Developer (relating to the Total Project Cost) the sum by which the capital cost of the Project, as stated by the Developer for purposes of claiming Termination Payments, exceeds the Total Project Cost.
- xxxi) **“Event of Default”** means a Developer Event of Default and/or a DMA Event of Default, as the context may require or admit.
- xxxii) **“Environment Management Plan”** means the plan set out in Schedule 8.
- xxxiii) **“External Infrastructure”** shall mean (i) water and sewerage system, drainage system, solid waste management system, boundary walls, internal roads and pathways, green areas/ park and the associated amenities (commercial built up area such as shops, kiosks, etc.) and other facilities, community centre, conveniences and amenities, including parking lots/spaces developed specifically for housing; and (ii) any other structures, works, appurtenances or common facilities constructed at any of the Project Site/s, more particularly described in Approved DPR, that shall be developed, designed, financed, constructed, by the Developer at any of the Project Site/s;
- xxxiv) **“Financial Closure”** means the date on which the Financing Documents providing for funding by the Lenders have become effective and the Developer has immediate access to such funding under the Financing Documents.
- xxxv) **“Financial Year”** means the year commencing from 1st April of any calendar year to the 31st March of the next calendar year except in the first and the last calendar year of the subsistence of this Agreement. In the first year of subsistence of this Agreement, it means the period from the Compliance Date to the 31st March of next calendar year. In the last year of subsistence of this agreement, it means the period from 1st April to the Transfer Date.
- xxxvi) **“Financing Documents”** means the documents executed by the Developer in respect of

financial assistance (including refinancing) for the Project to be provided by the Lenders by way of loans, advances, subscription to debentures and other debt instruments and guarantees, risk participation, take-out financing, or any other form of credit enhancement and shall include loan agreements, guarantee agreements, subscription agreements, notes, debentures and any documents providing security for such financial assistance. Provided that for the purpose of computing Termination Payments and Debt Due, the financial assistance provided by the Lenders under such documents shall be restricted to the financial assistance for the Project.

- xxxvii) **“Force Majeure”** or **“Force Majeure Event”** shall mean an act, event, condition or occurrence specified in the Article 12.
- xxxviii) **“Good Industry Practice”** means the exercise of that degree of skill, diligence and prudence and those practices, methods, specifications and standards of engineering, procurement, construction, equipment, safety, operation and performance, as may change from time to time and which would reasonably and ordinarily be expected to be used by a skilled contractor and/or operator, in the implementation, operation and maintenance and supervision of a project of the type and size similar to the Project.
- xxxix) **“GoJ”** means the Government of the State of Jharkhand.
- xl) **“GoI”** means the Government of India.
- xli) **“Total Project Cost”** means the lowest of the following:
- Total Project Cost for the Project as set forth in the Financing Documents.
 - Actual Capital Cost of the Project upon completion thereof as certified by statutory auditors.
 - Project Cost in Approved DPR.
- xlii) **“Project Implementation Schedule”** means the Implementation Schedule for the Project as set forth in Schedule 5.
- xliii) **“Independent Engineer”** means any other reputed Person appointed by DMA in accordance with Clause 9.9 (a) (i) (1) for supervision and monitoring of compliance of implementation and operation & maintenance of Project Facilities by the Developer and to undertake, perform, carry out the duties, responsibilities, services and activities as set out Schedule 7.
- xliv) **“Lenders”** means financial institutions, banks, non-banking financial companies, funds, trusts or trustees of the holders of debentures or other securities who provide financial assistance to the Developer under the Financing Documents.
- xlvi) **“Material Adverse Effect”** means circumstances which may or do (i) render any right vested in a Party by the terms of this Agreement ineffective or (ii) adversely affect or restrict or frustrate the ability of any Party to observe and perform in a timely manner its obligations under this Agreement or the legality, validity, binding nature or enforceability of this Agreement.
- xlvi) **“Material Breach”** means a breach of the obligations, terms and conditions of this Agreement or covenants by a Party, which materially and substantially affects or is likely to affect the Project/ the performance of the transactions contemplated by this Agreement or has/is likely to have a Material Adverse Effect.
- xlvi) **“Party”** means either DMA or the Developer, and **“Parties”** means collectively DMA and the Developer.
- xlvi) **“Performance Security”** means the irrevocable and unconditional bank guarantee Performance Security) provided by the Developer/ Successful Bidder from a nationalised/scheduled bank approved by DMA, substantially in the form set out in Schedule 10, as guarantee for the performance of its obligations in respect of the Project.
- xlix) **“Person”** means any natural person, firm, corporation, company, voluntary association, partnership, joint venture, trust, incorporated organisation, unincorporated organisation, any

- government or competent authority or instrumentality thereof or other entity.
- l) **“Possession through leave and license”** means constructive non-exclusive possession of the Site, together with all way leaves, easements, unrestricted access and other rights of way, howsoever described, necessary for construction, operation and maintenance of the Project in accordance with this Agreement.
 - li) **“Project”** means, subject to the provisions of this Agreement, the development, financing, design, construction and transfer of the Project Facilities and all activities incidental there to at the Project Site/s.
 - lii) **“Project Agreements”** means, collectively this Agreement, the engineering, procurement and construction (EPC) agreements, operation and maintenance (O&M) agreements and any other material agreements (other than the Financing Documents) entered into or may hereinafter be entered into by the Developer in connection with the Project.
 - liii) **“Project Assets”** means collectively the Project Facilities comprising all tangible and intangible assets relating respectively to the Project including, but not limited to, (a) rights over the Site in the form of licence, right-of-way or otherwise; (b) tangible assets such as foundation, buildings, substructures and superstructures, works, drainage facilities, sign boards, equipment, electrical works for lighting of and telephone and communication equipment; (c) financial assets, such as receivables, cash and investments; (d) rights under the Project Agreements and other agreements and (e) insurance proceeds.
 - liv) **“Project Facility/ies”** means the housing complex of EWS dwelling units and associated facilities, located at any of the Project Site/s, comprising the housing facilities but excluding External Infrastructure and more particularly described in Approved DPR, that shall be developed, designed, financed, constructed, by the Developer at any of the Project Site/s;
 - lv) **“Project Site/s”** or **“Site”** means the lands, appurtenances and rights in relation thereto on, including easementary rights and the approach land on, under, in or through which the Project Facilities or any other construction relating thereto is situated, located, passes through, sits upon or overlies, more particularly described in Schedule 1 and depicted on the site plan attached thereto.
 - lvi) **“Provisional Certificate”** means certificate in respect of the Project issued by DMA pursuant to Clause 9.6(b).
 - lvii) **“Punch List Items”** shall have the meaning specified in Clause 9.6(b).
 - lviii) **“Request for Qualification cum Request for Proposal”** or **“RFQ cum RFP”** means the Request for Qualification cum Request for Proposal dated _____, 201_ issued by DMA inviting bids/proposals for the Project, and includes any addendum/clarifications issued in respect thereof by DMA.
 - lix) **“Rs.”** or **“Rupees”** refers to the lawful currency of the Republic of India;
 - lx) **“SBI PLR”** means the prime lending rate per annum for loans with 1 (one) year maturity as fixed from time to time by the State Bank of India, and in the absence of such rate, the average of the prime lending rates for loans with 1 (one) year maturity fixed by the Punjab National Bank and the Bank of India and failing that any other arrangement that substitutes such prime lending rate as mutually agreed between the Parties.
 - lxi) **“Scheduled Construction Completion Date”** shall have the meaning specified in Clause 9.5(b).
 - lxii) **“Security Interest”** means any existing or future mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, security interest or other encumbrances of any kind securing or conferring any priority of payment in respect of any obligation of any Person and includes without limitation any right granted by a transaction which, in legal terms, is not the granting of security but which has an economic or financial effect similar to the granting of

- security in each case under any Applicable Law.
- lxiii) **“Selected Bidder”** means the Consortium/entity that has been successful in the bidding process for the Project and that has incorporated the Developer.
- lxiv) **“Statutory Auditors”** means a reputed firm of chartered accountants duly licensed to practice in India acting as statutory auditors of the Developer.
- lxv) **“Subcontractor”** means the equipment, procurement and construction (EPC) contractor(s) and/or any other contractors and sub-contractors, manufacturers or suppliers of Works or part thereof, as the context admits or require, to whom the Developer contracts or subcontracts the Works relating to the Project Facilities.
- lxvi) **“Substitute Entity”** means the entity specified in Clause 13.4(b).
- lxvii) **“Taxation”** or **“Tax”** means all forms of taxation whether direct or indirect and whether levied by reference to income, profits, gains, net wealth, asset values, turnover, added value, goods, services, works, import, export, production or other reference and statutory, governmental, state, provincial, local governmental or municipal impositions, duties, contributions, rates and levies (including without limitation social security contributions and any other payroll taxes), whenever and wherever imposed (whether imposed by way of a withholding or deduction for or on account of tax or otherwise) and/or levied of any nature whatsoever, whether by GoI, GoJ, DMA or Competent Authorities, and in respect of any Person and all penalties, charges, costs and interest relating to it.
- lxviii) **“Termination”** means prior termination of this Agreement pursuant to Termination Notice but shall not, unless the context otherwise requires, include the expiry of this Agreement due to efflux of time in the normal course.
- lxix) **“Termination Payment”** means the aggregate of the amounts payable by DMA to the Developer under this Agreement upon Termination. Provided, however, that for purposes of determining such Termination Payments the capital cost of the Project shall at all times be reckoned as an amount not exceeding the Total Project Cost and the liability of DMA to make such payments shall be determined as if such capital cost is restricted to Total Project Cost.
- lxx) **“Third Party”** means any Person, real or judicial, or entity other than DMA and the Developer.
- lxxi) **“Third Party Agreements”** means all Agreements entered into between the Developer and third Persons, including, but not limited to other Agreements with Developer and vendors of any goods or services to the Developer.
- lxxii) **“Tests”** means the tests to be carried out pursuant to this Agreement.
- lxxiii) **“Transaction Documents”** means collectively the Project Agreements and the Financing Documents.
- lxxiv) **“Transfer Date”** means the day immediately following the last day of the Concession Period or as mutually decided by DMA and the Developer subject to issuance of the Completion Certificate for the Project, including any extensions thereto or earlier termination thereof, in accordance with the terms of this Agreement.
- lxxv) **“Users”** means Persons and entities using the any of the Project component.
- lxxvi) **“Vacant Possession”** means delivery of possession of the lands comprising the Project Site/s, free from all Encumbrances, and the grant of all Easementary Rights and all other rights appurtenant thereto.
- lxxvii) **“Works”** or **“Scope of Works”** means the works relating to the development, design, construction of the Project Facilities (singularly or collectively, as the context admits or requires), to be undertaken by the Developer and/or its Subcontractors in accordance with the provisions hereof, including the Developmental Standards, and the services and things to be designed, engineered, constructed, supplied, executed, manufactured, installed, completed, tested, commissioned, rectified, replaced, made good, carried out and undertaken and any other permanent, temporary or urgent works required hereunder in respect of such facility,

detailed in Schedule 2.

lxxviii) “WPI” means the wholesale price index for all commodities published monthly by the Office of the Economic Advisor to the Government of India, Ministry of Commerce and Industry, GoI and shall include any index which substitutes the WPI.

1.2 ***PRINCIPLES OF INTERPRETATION***

In this Agreement, unless the context otherwise requires:

- (a) reference to any legislation or law or to any provision thereof shall include references to any such law as it may, after the date of this Agreement, from time to time be amended, supplemented or re-enacted;
- (b) words importing singular shall include plural and vice versa, and words importing the masculine shall include the feminine gender; and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal entity);
- (c) the table of contents and headings are for convenience of reference only, and shall not be used in and shall not affect the construction or interpretation of this Agreement;
- (d) words “include” and “including” are to be construed without limitation;
- (e) any reference to any point in time shall mean a reference to that point in time according to Indian Standard Time; any reference to Rs. or Rupees shall mean a reference to Indian Rs. or Rupees (currency of India);
- (f) any reference to day shall mean a reference to a calendar day; any reference to month shall mean a reference to a calendar month;
- (g) the Schedules to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- (h) reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to such agreement, deed, instrument, license or other document as the same may be amended, varied, supplemented, modified, novated or suspended at the time of such reference;
- (i) references to recitals, clauses, sub-clauses, schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to recitals, clauses, sub-clauses, schedules of or to this Agreement;
- (j) “lakh or lac” means a hundred thousand (100,000) and “crore” means ten million (10,000,000);
- (k) any reference to any period commencing “from” a specified day or date and “till” or “until” a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a Business Day, then the period shall run until the end of the next Business Day;
- (l) references to “construction” include, unless the context otherwise requires, investigation, design, development of site, engineering, procurement, delivery, transportation, installation, processing, fabrication, upgradation, equipping, installation, establishment, testing, commissioning and other activities incidental to the construction and “construct” shall be construed accordingly;
- (m) any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Independent Engineer shall be valid and effective only if it is in writing under the hands of duly authorised representative of such Party or the Independent Engineer;
- (n) wherever in this Agreement provision is made for the giving or issuing of any notice, endorsement, consent, approval, certificate or determination by any Person, unless otherwise specified, such notice, consent, approval, certificate or determination shall be in writing and the words “notify”, “endorsed”, “consent”, “approval”, “certify” or “determined” shall be construed

- accordingly;
- (o) unless otherwise provided, any interest to be calculated and payable under this Agreement shall accrue on a monthly basis and from the respective due dates as provided for in this Agreement;
 - (p) any word or expression used in this Agreement shall, unless defined or construed in this Agreement, bear its ordinary English meaning;
 - (q) the damages payable by a Party to the other Party as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage/liquidated damages likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the “**Damages**”);
 - (r) reference to an individual shall include his legal representative, successor, legal heir, executor and administrator;
 - (s) reference to a Person shall be construed as including a reference to its successors and permitted assigns in accordance with their respective interests; and
 - (t) reference to the Project Site may be for all the land parcels in the Project or a specific land parcel in the ProjectSite/s, as the context may require.

1.3 MEASUREMENTS AND ARITHMETIC CONVENTIONS

All measurements and calculations shall be in metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.

1.4 AMBIGUITIES WITHIN AGREEMENT

In case of ambiguities or discrepancies within this Agreement, the following shall apply:

- (a) Between two Clauses of this Agreement, the provisions of specific Clauses relevant to the issue under consideration shall prevail over those in other Clauses;
- (b) Between the Clauses and the Schedules, the Clauses shall prevail, save and except as expressly provided in the Clauses or the Schedules;
- (c) Between the written description on the drawings and the Scope of Work or Developmental Standards, the Scope of Work or Developmental Standards shall prevail;
- (d) Between the dimension scaled from the drawing and its specific written dimension, the latter shall prevail; and
- (e) Between any value written in numerals and that in words, the latter shall prevail.

1.5 PRIORITY OF DOCUMENTS

The documents forming part of the bidding process leading to this Agreement shall be interpreted in the following descending order of priority:

- (a) This Agreement
- (b) Approved DPR of the Project
- (c) The Schedules to this Agreement
- (d) The Letter of Award issued to the Developer
- (e) The written clarifications issued to the bidders
- (f) Written addenda to the RFQ cum RFP Document
- (g) The RFQ cum RFP Document
- (h) The Developer's Bid or Proposal
- (i) Written addenda to the RFQ cum RFP Notice/Advertisement, if any
- (j) The RFQ cum RFP Notice /Advertisement

ARTICLE 2: GRANT OF CONCESSION

2.1 CONCESSION

Subject to the terms and conditions of the Agreement, DMA grants to the Developer and the Developer hereby accepts the Concession including the exclusive right, authority and authorisation during the subsistence of this Agreement, including extension thereof, to plan, design, finance, engineer, construct, develop, transfer the Project and enjoy its commercial benefits for the Concession Period.

Subject to and in accordance with the terms and conditions set forth in this Agreement, the Concession hereby granted shall entitle the Developer, the exclusive right and authority to enjoy and undertake the following in accordance with the provisions of this Agreement, the Applicable Laws and the Applicable Permits:

- (a) Develop, finance, design, construct, transfer the Project as per the Scope of Work of the Project as mentioned in Schedule 2 as per good industry practice and to manage and handle the use thereof by third parties;
- (b) Manage, operate and execute rights over all or any part of the Project Assets without any limitation or restriction other than those expressly set out in this Development Agreement;
- (c) Appoint Subcontractors or agents on its behalf to assist the Developer in fulfilling its obligations in relation the Project;
- (d) Have access and liberty to plan, design, construct, finance, the proposed Project with the associated facilities and services at the Project Site during the Concession Period in accordance with the provisions of this Agreement.
- (e) Handover the Project/ Project Facilities to DMA on the Transfer Date;
- (f) enjoy possession through leave and license over the Project Site for a period that shall be co-terminus with the Development Agreement;
- (g) have exclusive right and authority, during the Concession Period, to carry out the specified activities in relation to the Project Facilities; and
- (h) Exercise and/or enjoy the rights, powers, privileges, authorisations and entitlements as set forth in this Agreement.

2.2 CONCESSION PERIOD

The Concession Period shall commence from the Compliance Date and shall extend for a period of 10(ten) years or the earlier termination or any extension of this Agreement in terms hereof.

2.3 ACTIONS IN SUPPORT OF CONCESSION

- (a) DMA shall assist the Developer, as necessary and mutually agreeable, to enable the Developer to achieve Financial Closure. Such assistance shall include discussion in good faith and entering into appropriate further documentation or additional writings in order to facilitate the process of achieving Financial Closure and which do not materially and adversely affect the rights and interests of DMA hereunder or impose additional material liabilities.
- (b) In order to implement the Project, the Developer shall have the right to sub-contract to Subcontractors, at its cost and risk, any of the Works without in any way relieving the Developer of its obligations as set out in this Agreement, provided such Subcontractors are capable of discharging the obligations under this Agreement for and on behalf of the Developer

and possess the qualifications, experience and skills for undertaking such works; provided further, in the event the Developer subcontracts over 50% or whole of the works relating to the Project Facilities, it may do so only with the prior written consent of DMA, which consent shall be given within 15 (fifteen) days of receipt of the Developer's written request in this behalf, failing which DMA shall be deemed to have consented to such subcontracting. Notwithstanding the express or deemed consent of DMA to such subcontracting, the Developer shall be solely responsible for the same and shall not be relieved in any manner of its obligations herein. The Developer shall ensure that any of its obligations, which are relevant to the scope of work of a Subcontractors, pursuant to this Agreement, are incorporated in the terms and conditions under which such Subcontractors is retained.

- (c) DMA shall use best efforts to ensure that the other concerned Competent Authorities expend the requisite facilitation and assistance to the Developer in the implementation of the Project Facilities, including the construction of the approach roads to and from the Site, the provision of police assistance on payment by Developer at the applicable rates and the approvals or facilitation needed from the municipal/local bodies.

ARTICLE 3: CONDITIONS PRECEDENT

Save and except as expressly provided in Articles 3, 4, 5, 10, 12,15,16 and 19 or unless the context otherwise requires, the respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of the conditions precedent relating to the other Party (the “Conditions Precedent”).

3.1 CONDITIONS PRECEDENT FOR DMA

The obligations of the Developer hereunder are subject to the satisfaction in full of the following Conditions Precedent of DMA. DMA shall have:

- (a) Handed over to the Developer the Possession of the Project Site/s as a licensee through leave and license in accordance with the terms of this Agreement; and
- (b) Made/procured change in the land use of the Project Site at its cost, if required.
- (c) Provided a parcel of land⁴ of _____ square meter (“Factory Land”) for the purpose of setting up the factory for the Project implementation. Such land shall be handed back to DMA, within 6 (six) months from the issue of Completion Certificate for all the land parcels comprising the Project Site or on Termination of this Development Agreement, as the case may be.

3.2 CONDITIONS PRECEDENT FOR DEVELOPER

The obligations of DMA hereunder are subject to the satisfaction in full of the following Conditions Precedent of the Developer. The Developer shall have

- (a) Made all the applications at its cost and procured the Clearances set out in Schedule 9, including environmental clearances that are required for commencing construction and execution of the Works unconditionally or if subject to conditions then all such conditions have been satisfied in full and such Clearances are in full force and effect;
- (b) Provided DMA certified true copies of its constitutional documents and board resolutions authorising the execution, delivery and performance of this Agreement by the Developer;
- (c) Achieved Financial Closure and provided to DMA notarised true copies of the Financing Documents along with soft copies;
- (d) All the representations and warranties of the Developer as set forth in its Bid (by Selected Bidder) and this Agreement are true and correct as on the date of execution of this Agreement and as on the Compliance Date;
- (e) Submitted to DMA the final design and Detailed Project Report with construction technology approved by DMA for the Project adhering to requirements of this Agreement within 45 days from Agreement Date;

⁴Based on the requirement of the Developer with maximum 1 Acre.

- (f) delivered to DMA a legal opinion from the legal counsel of the Developer with respect to the authority of the Developer to enter into this Agreement and the enforceability of the provisions thereof;
- (g) Provided to DMA copies (certified as true by the Director of the Developer) of all resolutions adopted by the Board of Directors of the Developer authorising the execution, delivery and performance of this Agreement by the Developer;

Provided that upon request in writing by the Developer, DMA may, in its sole discretion, waive fully or partially any or all the Conditions Precedent set forth in this Article 3.2.

3.3 OBLIGATIONS TO SATISFY CONDITIONS PRECEDENT

- (a) Each Party shall make all reasonable endeavours at its respective cost and expense to procure the satisfaction in full of the Conditions Precedent relating to it within a period of 180 (one eighty) days from the Agreement Date.
- (b) The later of the date, within such 180 days, when the Developer or DMA satisfied its Conditions Precedents shall be the Compliance Date (the “**Compliance Date**”), whereupon the obligations of the Parties under this Agreement shall commence.

3.4 NON-FULFILMENT OF CONDITIONS PRECEDENT

- (a) In the event the Conditions Precedent for a Party have not been satisfied within the stipulated time and DMA has not waived, fully or partially, such conditions relating to the Developer, this Agreement shall cease to have any effect as of that date and shall be deemed to have been terminated by the mutual agreement of the Parties and no Party shall subsequently have any rights or obligations under this Agreement and DMA shall not be liable in any manner whatsoever to the Developer or Persons claiming through or under it.
- (d) In the event that Possession of the Project Site/s as a licensee through leave and license has been delivered to the Developer prior to the fulfilment in full of the Conditions Precedent, upon the termination of this Agreement under this Article 3.4, the Project Site shall immediately revert to DMA, free and clear from any Encumbrances and along with all Easementary Rights, irrespective of any outstanding mutual claims between the Parties.
- (e) In the event this Agreement is terminated due to non fulfilment of DMA’s Conditions Precedent, DMA shall upon such termination return/refund in full the Performance Security to the Developer; provided there are no outstanding claims of DMA on the Developer unless DMA’s failure to fulfil its Conditions Precedent is a result of the Developer’s default, in which case DMA shall forfeit the Performance Security as damages.
- (f) Instead of this Agreement terminating as provided in Article 3.4, the Parties may by mutual agreement extend the time for fulfilling the Conditions Precedent.
- (g) In the event of termination of this Agreement under Article 3.4 due to non fulfilment of Conditions Precedent by either Party, DMA shall not be liable in any manner whatsoever to the Developer or its contractors, agents and employees. DMA’s liability shall remain limited to the provisions under this Article 3.4.

ARTICLE 4: PERFORMANCE SECURITY

4.1 CONSTRUCTION PERFORMANCE SECURITY

For securing the due and punctual performance of its obligations relating to the Project and the terms and conditions of this Agreement by the Developer from the date of execution of the Development Agreement, including under Article 3, and during Construction Period, the Selected Bidder/Developer shall, on or before the date of signing of Agreement, deliver to DMA an unconditional and irrevocable bank guarantee for a sum of Rs. _____ (Rupees _____ only) in favour of DMA from a scheduled/nationalised bank acceptable to DMA and payable and enforceable in Ranchi, in the form set forth in Schedule 10. (the “**Performance Security**”).

4.2 APPROPRIATION OF PERFORMANCE SECURITY

- (a) In the event of the Developer being in default of the due, faithful and punctual performance of its obligations relating to the Project under this Agreement and failing to remedy such default within the relevant cure period or owing any sums to DMA under this Agreement or in the event of there being any claims or demands whatsoever whether liquidated or which may at any time be made or have been made on behalf of DMA for or against the Developer under this Agreement or against DMA in respect of this Agreement, DMA shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to call in, encash and appropriate the relevant or delinquent amounts from the Performance Security as damages for such default, dues, demands or claims.
- (b) The decision of DMA as to any breach/delay having been committed, liability accrued or loss or damage caused or suffered shall be conclusive, absolute and binding on the Developer. The Developer specifically confirms and agrees that no proof of any amount of liability accrued or loss or damages caused or suffered by DMA under this Agreement is required to be provided in connection with any demand made by DMA to recover such compensation through encashment of the Performance Security under this Agreement and that no document or any action shall be required other than DMA's written demand in this behalf.
- (c) In the event of encashment of the Performance Security by DMA, in full or part, the Developer shall within 30 (thirty) days of receipt of the encashment notice from DMA provide a fresh Performance Security or replenish the existing Performance Security, as the case may be. The provisions of this Article 4 shall apply mutatis mutandis to such fresh Performance Security. The Developer's failure to comply with this provision shall constitute a Developer Event of Default, which shall entitle DMA to terminate this Agreement in accordance with the provisions of Article 14 hereof.

4.3 RELEASE OF PERFORMANCE SECURITY

- (a) Subject to the provisions hereof, DMA shall return the Performance Security to the Developer within four weeks following the expiration of its validity (i.e. the date of Construction Completion), provided that there are no outstanding claims of DMA on the Developer.

ARTICLE 5: REPRESENTATIONS AND WARRANTIES

5.1 REPRESENTATIONS AND WARRANTIES OF PARTIES

Each Party represents and warrants to the other that:

- (a) It is duly organized, validly existing and in good standing under the laws of India;
- (b) It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (c) It has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;
- (d) It has the financial standing and capacity to undertake the Project;
- (e) This Agreement constitutes its legal, valid and binding obligation fully enforceable against it in accordance with the terms hereof;
- (f) It is subject to civil and commercial laws of India with respect to this Agreement and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof; and
- (g) It shall have an obligation to disclose to the other Party as and when any of its representations and warranties ceases to be true and valid.

5.2 ADDITIONAL REPRESENTATIONS AND WARRANTIES OF DEVELOPER

In addition, the Developer represents and warrants to DMA that:

- (a) The execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Developer's Memorandum and Articles of Association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- (b) There are no actions, suits, proceedings, or investigations pending or, to the Developer's knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi judicial or other authority, the outcome of which may result in the breach of or constitute a default of the Developer under this Agreement or which individually or in the aggregate may result in any Material Adverse Effect;
- (c) It has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Competent Authority or any other pending or potential matters which may result in any Material Adverse Effect or impairment of the Developer's ability to perform its obligations and duties under this Agreement;
- (d) It has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a Material Adverse Effect;
- (e) No representation or warranty by the Developer contained herein or in any other document furnished by it to DMA or to any Competent Authority in relation to Clearances or otherwise contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (f) Each Consortium Member/the Selected Bidder was and is duly organised and existing under the

laws of the jurisdiction of its incorporation and has full power and authority to consent to and has consented to the Developer entering into this Agreement and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;

Provided that whenever any pending or potential matter, including the matters listed under the aforesaid sub-clauses comes to the knowledge of the Developer during the Concession Period, the outcome of which may result in the breach of or constitute a default of the Developer under this Agreement or which individually or in the aggregate may result in any Material Adverse Effect or impairment of the Developer's ability to perform its obligations and duties under this Agreement, the Developer shall immediately intimate the same to DMA;

- (g) no order has been made and no resolution has been passed for the winding up of the Developer or for a provisional liquidator to be appointed in respect of the Developer and no petition has been presented and no meeting has been convened for the purpose of winding up the Developer. No receiver has been appointed in respect of the Developer or all or any of its assets. The Developer is not insolvent or unable to pay its debts as they fall due;
- (h) the information furnished in the Proposal and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;
- (i) the existing Lead Member of the Consortium holds not less than 26% (twenty-six percent) of its issued and paid up Equity and together with the existing consortium members holds not less than 100% as on the date of this Agreement and the respective holding of each Consortium Member conforms to the representation made by the Consortium and accepted by DMA as part of the Bid;
- (j) All rights and interests of the Developer in the Project and Project Assets shall pass to and vest in DMA or its nominated agency on the Transfer Date free and clear of all liens, claims, and encumbrances, without any further act or deed on the part of the Developer or DMA and that none of Project Assets including materials, supplies or equipment forming part thereof shall be acquired by the Developer subject to any agreement under which a security interest or other lien or encumbrance is retained by any person save and except as expressly provided in this Agreement; and
- (k) No sums, in cash or kind, have been paid or will be paid by or on behalf of the Developer, to any person by way of commission or otherwise for securing the Concession execution of this Agreement or for influencing or attempting to influence any officer or employee of DMA.

5.3 DISCLOSURE

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of either Party under this Agreement.

5.4 DISCLAIMER

- (a) Without prejudice to any express provision contained in this Agreement, the Developer acknowledges that prior to the execution of this Agreement, the Developer has after a complete and careful examination made an independent evaluation of the Project, the legal framework and the technical and financial aspects of the Project, Scope of Work, the Developmental Standards, the Project Site and the suitability of its condition, soil and location for implementation of the Project, the availability of goods, materials and things implementing Project, all the information and documents provided by DMA, its consultants or any

Competent Authority, the market and demand conditions, information relating to Users and the cost, risks, consequences and liabilities involved in implementing the Project, and has determined to the Developer's satisfaction the nature and extent of such difficulties, risks and hazards as are likely to arise or may be faced by the Developer in the course of performance of its obligations hereunder.

- (b) The Developer further acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in sub-clause (a) above and hereby confirms that DMA, any Competent Authority and their consultants shall not be liable for the same in any manner whatsoever to the Developer or Persons claiming through or under the Developer.
- (c) The Developer accepts that it is solely responsible for the verification of any design, data, documents or information provided by DMA to the Developer, its consultants or any Competent Authority and that it shall accept and act thereon at its own cost and risk.
- (d) The Developer shall be solely responsible for the contents, adequacy and correctness of the Design and Drawing, data and detailed engineering prepared or procured by the Developer for implementing the Project.

ARTICLE 6: PROJECT SITE

6.1 *POSSESSION OF SITE*

- (a) The Project Site/s shall comprise of the parcels of land as described in Schedule 1 in respect of which the possession through leave and license shall be provided by DMA to the Developer as per the terms and conditions set forth in this Agreement.
- (b) The Parties shall, within 15 (fifteen) days of DMA's notice in this behalf to the Developer prior to the Compliance Date, carry out through their duly authorised representative, a joint inspection and verification of all the real estate, structures, land, buildings and record the report thereof in a memorandum duly signed by the Parties/their representatives. The participation of the Developer in such joint inspection shall be mandatory.
- (c) DMA shall on Compliance Date hand over to the Developer the Possession of the Site on an 'as is where is' basis as a licensee, through leave and license, for a period that is co-terminus with the Concession Period, together with the necessary rights of way/way leaves and along with the right, authority and license to implement the Project thereat in accordance with the provisions hereof. For avoidance of doubt the land parcels forming a part of the Site shall be handed over in different phases co terminus with the Concession Period in various districts of Jharkhand.
- (d) The grant of the leave and license herein and handing over of the Site as aforesaid shall not confer or be deemed to have conferred on the Developer any right, title or interest whatsoever (whether in the nature of an easement or otherwise) in the Site or any part thereof and nothing in these presents contained shall be construed as a demise in law of the Site unto the Developer so as to give the Developer any legal interest therein. The Developer shall only have the non-exclusive right to enter upon the Site for the purpose of implementing the Project in accordance with the terms hereof.
- (e) Upon the Developer observing and performing its obligations, the several covenants, conditions and agreements herein contained and on the part of the Developer to be observed and performed, the Developer shall remain in peaceful possession and enjoyment of the Site during the Concession Period. In the event the Developer is obstructed by any Person claiming any right, title or interest in or over the Site or in the event of any enforcement action including any attachment, distraint, appointment of receiver or liquidator being initiated by any Person claiming to have any interest in/ charge on the Site or any part thereof, DMA shall, if called upon by the Developer, defend such claims and proceedings at its cost and expense and the Developer shall not be liable for the same in any manner whatsoever.
- (f) The Developer shall remove the utilities at, on, over or under the Site at its cost and expense and with the approval of the concerned Competent Authorities and DMA shall render all necessary assistance in this behalf.
- (g) The Developer and the persons claiming through or under it shall keep the Site free from any trespass or encroachment and keep DMA informed thereof and take appropriate and timely legal and remedial action.
- (h) It is being expressly agreed and understood that DMA shall have no liability whatsoever in respect of survey and investigations carried out or work undertaken by the Developer pursuant hereto in the event of Termination or otherwise
- (i) It is expressly agreed that the rights granted hereunder shall terminate automatically and forthwith, without the need for any action to be taken by DMA to terminate the rights, upon

the Termination of this Agreement for any reason whatsoever.

- (j) It is expressly agreed that mining rights do not form part of the rights granted to the Developer under this Agreement and the Developer hereby acknowledges that it shall not have any mining rights or any interest in the underlying minerals on or under the area where cable have been laid. For the avoidance of doubt, mining rights mean the right to mine any and all minerals or interest therein.

6.2 *Antique Articles*

All articles of value or antiquity found on the Site shall be the property of DMA. The Developer shall take reasonable precautions to prevent its labour and personnel and that of its subcontractors from removing or damaging any such article or thing. The Developer shall immediately upon discovery of such article or thing, inform DMA, which may issue instructions for dealing therewith

6.3 *INFORMATION ABOUT SITE*

The information about the Site, provided by DMA to the Developer in good faith and with due regard to the matters for which such information is required by the Developer. DMA agrees to provide to the Developer, upon a reasonable request, any further information relating to the Site, which DMA may now possess or may hereafter come to possess. Subject to this, DMA makes no representation and gives no warranty to the Developer in respect of the condition of the Site and the Developer shall accept the Site handed over to it by DMA on an “as is where is basis”.

6.4 *DMA’S PROPERTY AT SITE*

All existing debris and construction and building materials (sand, gravel, stone, rock, loose earth etc.) lying at the Site or generated during implementation of Project generated from demolition of existing structures shall be promptly disposed off by the Developer at its cost. The Developer may if it deems appropriate use the same for the execution of the Works. For avoidance of doubt, the Developer shall not have any right on the construction and building materials (sand, gravel, stone, rock, loose earth etc.) lying at the Site or generated during any construction activity by third parties or DMA.

6.5 *ACCESS TO SITE*

Following the delivery of Possession of the Site through leave and license, the Developer shall, at all reasonable times and on reasonable notice, afford access to the Site to DMA and the representatives of DMA or Persons duly authorised by the relevant Competent Authority concerned with safety, security, sanitation or environmental protection etc. to inspect the Site and to investigate any other matter within its authority.

6.6 *USE OF SITE*

- (a) The Developer shall use the Site only for the purposes of implementing the Project there at and for purposes incidental or necessary thereto as permitted under this Agreement and shall not, without the prior written consent of DMA, use the Site for any other purpose. The Developer accepts that this is an essential condition of this Agreement
- (b) The Developer shall not part with or create any Encumbrances on the whole or any part of the Site save and except as expressly permitted under this Agreement; *provided* that nothing contained herein shall be construed or interpreted as restricting the right of the Developer to appoint subcontractors in accordance with the terms hereof. For the avoidance of doubt, the Developer shall not sell, mortgage or lease the Site/built up area thereat or any part thereof under any form, device or arrangement save and except as expressly provided herein or otherwise expressly authorized in writing by DMA.

6.7 ACCESS TO THE DMA AND ANY THIRD PARTIES APPOINTED BY DMA

The right of way granted for construction on the Project site shall always be subject to the right of access of the person appointed by DMA and its authorised representatives for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement.

DMA reserves the right to appoint third parties to undertake additional works within the Project Site and in such case, the Developer shall cooperate with such third party in implementation of its scope and provide requisite information as per the directives of DMA.

6.8 SPECIAL/TEMPORARY RIGHT OF WAY

The Developer shall bear all costs and charges for any special or temporary right of way required by it in connection with access to the Project Site. The Developer shall obtain at its cost such facilities on or outside the Site as may be required by it for the purposes of the Construction and the performance of its obligations under this Agreement.

6.9 DISPLAY OF LOGO

Notwithstanding any statement to the contrary contained herein, DMA reserves the right to prominently display the Government of Jharkhand logo or any entity controlled by it on the Project Site as deemed appropriate by the Authority. The cost of maintenance of such logo/sign shall be borne by the Developer for the entire Concession period.

ARTICLE 7: OBLIGATIONS OF PARTIES

7.1 OBLIGATIONS OF DMA

In addition to and without prejudice to its obligations specified in the other provisions of this Agreement, DMA shall, at its own cost and expense, during the Concession Period comply with the following obligations in respect of the Project:

- (a) All litigation involving the Project Site/s prior to the Compliance Date and wherein the actions have been filed against DMA shall be conducted solely by DMA. The Developer shall not be liable or responsible for the same in any manner. DMA shall indemnify the Developer and shall hold it harmless from and against any claim or cost that may arise as a result of any such litigation.
- (b) Undertake IEC activities with the slum dwellers and other stakeholders.
- (c) upon written request from the Developer, DMA shall use its best efforts to provide the Developer for the Project Facilities access to all infrastructure facilities and utilities, including water, electricity, telecommunication, sewerage and drainage facilities already available on /at the site, at fair rates and on terms no less favourable to the Developer than those generally available to customers receiving substantially equivalent services; provided the Developer has made the requisite applications and is in compliance with the necessary conditions for getting such connections; provided further that the Developer shall arrange at its cost and consequence any such additional facilities that it may require and DMA shall provide the requisite facilitation in this behalf.
- (d) upon request from the Developer, DMA shall grant all Clearances which are necessary for the implementation of the Project at the appropriate stages and which are in its authority to grant or provide assistance in the procuring of the same by the relevant Competent Authorities subject to the Developer complying with the eligibility criteria for the grant of such Clearances.
- (f) DMA shall permit the Developer to finance, construct, infrastructure at the Site in accordance with the scope of this Agreement and grant or facilitate the requisite Clearances for the same.
- (g) For regular monitoring and quality control in the project, a Third Party Quality Monitoring Agency will be duly selected from amongst consultants empanelled in DMA.
- (h) Layout plan of the residential complexes in the housing projects will be got prepared through JUIDCO. Directorate of Municipal Administration (DMA) will get DPR prepared for basis external infrastructure of the housing projects with the help of JUIDCO. Basis external infrastructure includes Boundary Wall, Gate, Road, Drain, Sewerage, Water Supply Pipeline, External Electrification, Street Light, Rain Water Harvesting, Solid/Liquid Waste Management, Sewerage Treatment, Waste water recycling, Community Hal, Society Office etc. related other basic infrastructure facilities.
- (i) DMA shall use best endeavours to assist the Developer in removing or adequately protecting at the Developer's cost and expense, all structures including, physical or structural impediments, residents, buildings, pipelines, utilities on or under the ground at the Site, constructed, procured, installed by the Developer in accordance with Approved DPR and as necessary to enable the Developer to commence and undertake construction of the Project Facilities.
- (j) DMA shall facilitate the Developer in liaising with the concerned Competent Authorities and including in seeking assistance of traffic or other police, in matters as necessary, including regulation of movement of any person on the Project site, removal of trespassers and for security of the material, labour and machinery, against payment for the same at the applicable

rates.

- (k) Make timely payments to Developer in accordance with the terms of this Agreement.

7.2 OBLIGATIONS OF DEVELOPER

In addition to and without prejudice to or derogation of its obligations specified elsewhere in this Agreement, the Developer shall, without qualification, during the Concession Period observe, undertake, comply with and perform the following:

- (a) Develop, design, finance, construct, and transfer the Project Facilities in accordance with the terms of this Agreement, including without limitation the Applicable Laws, terms of Clearance, Developmental Standards and Good Industry Practice. The Developer shall plan, organise and execute the works so that there is least disruption to the movement on adjoining roads and minimal inconvenience to the neighbouring residents. DMA shall assist the Developer in all respects with reference to such works, but the assistance or denial thereof shall not release the Developer from its obligations.
- (b) without prejudice to the Developer's obligations in this respect, make or cause to be made the necessary applications to the relevant Competent Authority for all Clearances and supply the appropriate particulars and details to such Competent Authority as may be necessary to confirm that the Developer fulfils the eligibility criteria to enable such authority reasonably to consider the request for the grant of the relevant Clearance and, following the grant of any such Clearance, maintain such Clearance in full force and effect so long as it is necessary in order for the Developer to perform its obligations hereunder.
- (c) procure, as required, the appropriate proprietary rights, licences, agreements and permissions for materials, methods, processes and systems used or incorporated into development and operations of the Project.
- (d) organise the supervision, monitoring and control of the construction, operation and maintenance of the Project Facilities by the Subcontractors, if any, as may be necessary to ensure the proper performance of their respective obligations under their respective contracts and in accordance with the terms and conditions of this Agreement.
- (e) periodically report to DMA during the Concession Period as detailed in Clause 9.9(ii)(e) and elsewhere in this Agreement.
- (f) achieve Construction Completion within Construction Period for Project; *provided* that the Developer shall not be in breach of this provision, if any non-fulfilment or delay in fulfilment of its obligations herein are caused by (i) the occurrence of an event of Force Majeure in accordance with Article 12 hereof or (ii) a DMA Event of Default under this Agreement or (iii) increase in scope of work certified by Independent Engineer.
- (g) arrange and access at its cost and expense all infrastructural facilities like water, electricity and goods, materials, consumables, things and services etc. as necessary for the implementation, construction and operation and maintenance of the Project and make arrangements for back-up supply of power.
- (h) make timely payments to DMA in accordance with the terms of this Agreement.
- (i) save and except as expressly provided herein, not transfer or dispose off or otherwise alienate any of the Project Assets without the prior written approval of DMA.
- (j) be responsible for safety, soundness and durability of the Project Facilities, including all structures forming part thereof and their compliance with the provisions of this Agreement.
- (m) provide a security and watch and ward service at the Site to maintain the safety and security of the life and property and make provision and arrangement for first aid and prompt medical attention in cases of accidents and emergencies.

- (n) procure and maintain the requisite insurance in respect of the Project Facilities for meeting liabilities arising out of loss of property/or life during the Concession Period. The Developer would be responsible for payments arising out of any third party claims and DMA shall not be liable for any such claims.
- (o) comply with its obligations under this Agreement in the event of the termination or prior expiry of this Agreement/Concession Period,.
- (p) For the demolition of the existing structures at the Project Site (if any), the following provision shall be taken into consideration:
 - i) The land for the Project shall be carved out after the demolition of the existing immovable structures as per requirements. The demolition work shall be taken in a planned manner as per Good Industry Practice to avoid any damage to the adjoining properties, men and machinery.
 - ii) The area to be dismantled/ demolished shall be adequately segregated/ cordoned off by suitable means and measures and display boards shall be erected all around for warning of general public and adjoining / nearby activities. Further requisite measures shall be taken to avoid any damage to adjoining properties / assets by providing under pinning, under shoring and sheet piling etc. as per requirements of the Project Site.
 - iii) The solid and other wastes, debris and building and excavation material as a result of dismantling/ demolishing and other works undertaken during the implementation of the Project, shall be disposed of at the discretion of Developer, at sites approved by DMA or Competent Authorities. For avoidance of the doubt, the Project Site shall be cleared of all debris before undertaking construction.
- (q) promptly notify the Competent Authorities and hand over to them any archaeological finds, treasures and precious and semi-precious minerals discovered at the Project Site by the Developer or its employees, agents and subcontractors.
- (r) comply to laws, rules and regulations relating to development near heritage structures, in case if such laws, rules and regulations are applicable on the project site.
- (s) provide to DMA notarised true copies of the duly executed Transaction Documents to which the Developer is a party, including any related instruments, deeds, contracts, supplemental agreements and other such documents relating thereto and of any amendments, supplements or replacements etc. thereof within 15 (fifteen) days of the execution or such amendment etc.
- (t) Not make any replacement, modification or amendment to any of the Transaction Documents at any time without the prior written consent of DMA if such replacement, modification or amendment has or may have the effect of imposing or increasing any financial liability or obligation on DMA and in the event that any replacement, modification or amendment is made without such consent, the Developer shall not enforce such replacement, modification or amendment nor permit enforcement thereof against DMA.
- (u) In the event of an accident within the Project Site the Developer shall, by most expeditious means, inform the police and other concerned Competent Authorities and DMA. The Developer shall take expeditious action to provide medical aid, emergency services and relief to the accident victims and upon completion of legal formalities clear the accident site and remove the debris and wreckage. The Developer shall liaison with the emergency hospital and ambulance service providers to meet exigencies and emergencies arising out of accidents. DMA shall not be liable to pay any compensation to the accident victims unless such accident is due to the default or negligence of its employees or representatives or DMA is required to make such payment under the applicable laws or orders of any court.
- (v) The Developer shall be liable to pay to the concerned Competent Authorities the electricity, water, sewerage, power, telephone, sanitation and other applicable utility expenses, charges and rates, including penalties for delay or default in payment, at the rates applicable from time to

- time, in respect of the use of such utilities for the Project Facilities and indemnify and keep indemnified DMA in this respect.
- (w) The Developer shall indemnify and keep indemnified DMA, its employees and consultants from and against any claim, liability, cost, suit or legal proceeding and attorney costs arising in any manner from the implementation of the Project.
 - (x) The Developer shall pay or ensure payment of all present and future applicable taxes, charges, rates, assessments, duties, levies, fines, cesses including labour welfare cess, penalties and other outgoings, including property and municipality taxes from time to time during the Concession Period to the Competent Authorities in respect of the Project Facilities/Project Site. The Developer shall be responsible for payment of applicable service tax on the instalments of any payment to DMA. The Developer shall indemnify and keep indemnified DMA from any and all liabilities and consequences arising from any and all such non-payment, delayed payment, attachment, disturbance of possession, notice, order, litigation etc.
 - (y) The Developer shall make efforts to maintain harmony and good industrial relations among the labour and personnel employed in connection with the performance of the Developer's obligations under this Agreement/implementation of the Project and be the principal employer in respect of such labour and personnel. The Developer shall be solely responsible and liable for compliance with all Applicable Laws, including labour and local laws, pertaining to the employment of labour, staff and personnel by it and its Subcontractors for implementing the Project.
 - (z) The Developer shall pay liquidated damages to DMA for the occurrence of events and at the rates as set forth in Schedule 6 other than where such occurrences are caused by (i) an event of Force Majeure in accordance with Article 12 hereof or (ii) a DMA Event of Default or any other act or omission by DMA in material contravention of its obligations under this Agreement;
 - (aa) ensure that to the extent possible transplant or relocate the existing trees within the Project Site and minimize the tree cutting. In case, tree cutting is necessary, the Developer shall obtain necessary Clearance from Competent Authority required for the same and adhere to the conditions of such approval. Further design the Project Facilities in such a way that the aforesaid could be achieved to maintain the green cover.
 - (bb) provide the necessary documents and other information and such assistance, labour, materials, consumables, electricity, fuel, stores, apparatus and instruments as may reasonably be required by DMA to carry out tests in the Project. The Developer shall provide engineering support and technical know-how as necessary to carry out such tests.
 - (cc) not to do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement.
 - (dd) not to create any third party rights on the Site, except as permitted under this Agreement, and also to ensure that Government of Jharkhand/DMA are not adversely affected in any way.

7.2.1 OBLIGATIONS RELATING TO OTHER AGREEMENTS

- (a) It is expressly agreed that the Developer shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in any other agreement, and no default under any agreement shall excuse the Developer from its obligations or liability hereunder.
- (b) The Developer shall submit to DMA the drafts of all Third Party Agreements or any amendments or replacements thereto for its review and comments, and DMA shall have the right but not the obligation to undertake such review and provide its comments, if any, to the Developer within 15 (fifteen) days of the receipt of such drafts. Within 7 (seven) days of execution of any Third Party Agreement or amendment thereto, the Developer shall submit to DMA a true copy thereof, duly attested by a Director of the Developer, for its record. For the

avoidance of doubt, it is agreed that the review and comments hereunder shall be limited to ensuring compliance with the terms of this Agreement. It is further agreed that any failure or omission of DMA to review and/ or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by DMA. No review and/or observation of DMA and/or its failure to review and/or convey its observations on any document shall relieve the Developer of its obligations and liabilities under this Agreement in any manner nor shall DMA be liable for the same in any manner whatsoever.

- (c) The Developer shall not make any replacement or amendments to any of the Financing Documents without the prior written consent of DMA if such replacement or amendment has, or may have, the effect of imposing or increasing any financial liability or obligation on DMA, and in the event that any replacement or amendment is made without such consent, the Developer shall not enforce such replacement or amendment nor permit enforcement thereof against DMA. For the avoidance of doubt, DMA acknowledges and agrees that it shall not unreasonably withhold its consent for restructuring or rescheduling of the debt dues.
- (d) The Developer shall procure that each of the Third Party Agreements contains provisions that entitle DMA to step into such agreement, in its sole discretion, in substitution of the Developer in the event of Termination or Suspension.
- (e) The Developer may undertake development of Project by itself or through one or more contractors possessing requisite technical, financial and managerial expertise/capability; but in either case, the Developer shall remain solely responsible to meet the scope of work as mentioned under Schedule 2.

7.2.2 OBLIGATIONS RELATING TO CHANGE IN OWNERSHIP OF SPV

- (a) The Developer shall not undertake or permit any change in ownership, except with the prior written approval of DMA as per the provisions of this Article 7.2.2. DMA shall accord or deny its approval within 30 days of receipt of written request in this behalf, failing which DMA shall be deemed to have consented to such change of shareholding.
- (b) The Developer shall ensure that (i) Lead Member of the Consortium or the in case of individual Bidder such Bidder shall hold a minimum stake of 26% (twenty six percent) and (ii) in case of Consortium, other non-lead members shall hold not less than 10%, in the issued, subscribed and paid up equity share capital of the Developer. All the Consortium Members in the SPV, shall continue hold the equity stake which shall be greater than or equal the respective 51% and 10% as the case may be till the second anniversary of Construction Completion of Project.

7.3 OBLIGATIONS OF PARTIES

Each Party shall:

- (a) Comply with and perform its respective obligations under this Agreement and shall work and cooperate in good faith with the other Party.
- (b) Carry out its respective obligations during the subsistence of this Agreement in accordance with the transition plan such that construction of the Project is carried out simultaneously and with minimum dislocation and disruption to others persons or accidents at the Site.
- (c) Comply with its respective obligations under the Environment Management Plan.

ARTICLE 8: Not Used

ARTICLE 9: IMPLEMENTATION OF PROJECT

9.1 DETAILED PROJECT REPORT

(a) Preparation of Detailed Project Report

Within 90 days from Agreement Date, the Developer shall, at its cost, charges and expenses, prepare or cause preparation of the Detailed Project Report (or DPR) for the Project based on the construction technology decided by DMA, in accordance with the provisions hereof, including the Developmental Standards as mentioned in Schedules, the Applicable Laws, the terms of Clearances and Good Industry Practice and submit the same, along with the specifications and calculations, to the DMA/ Independent Engineer for its/his review.

(b) Review of DPR

- (i) DMA/Independent Engineer shall review the DPR and specifications and calculations submitted by the Developer and subject to the provisions of sub-clause (ii) herein below, communicate its/his approval within 21 (twenty one) days from the date of the receipt thereof. The DMA/ Independent Engineer may in consultation with the Developer prescribe a schedule for submission, clarifications and approval of DPR for specific components of the Project.

The finalised Technical Specifications shall be part of Approved DPR.

- (ii) In the event that DMA/Independent Engineer has any objection to the DPR and specifications and calculations or any part thereof, it/he shall promptly within the said 21 (twenty one) days notify the Developer of its/his objections, seek clarifications or suggest changes or modifications or corrections thereto. Thereupon, the Developer shall within 14 (fourteen) days of such notification provide the necessary clarification to the and/ or re-submit the DPR and/or specifications and calculations or part thereof, as the case may be, after incorporating the changes, modifications or corrections suggested by the DMA/ Independent Engineer without changing financial quotation.
- (iii) If DMA/Independent Engineer does not object to the DPR and specifications and calculations submitted to it/him by the Developer within 30 (thirty) days of submission, DMA shall be deemed to have approved such DPR and the Developer shall be entitled to proceed with the Project accordingly.
- (iv) DPR when approved by DMA, with or without any changes, shall be called Approved DPR.
- (v) The Developer shall not be entitled to any extension of time for completing construction or any other relief on account of delay caused due to providing any clarification or in resubmitting the DPR.
- (vi) The Developer shall not make any changes to Approved DPR, specifications and calculations approved or deemed to be approved by DMA under this Agreement, without the prior written consent of DMA. Provided that the Developer may, for more efficient functioning of the Project Facilities propose to and seek the consent of DMA for changes to the Approved DPR and specifications of any equipment consistent with all design standards applicable thereto and the Applicable Laws, which consent shall not be unreasonably denied or delayed by DMA; provided that the Developer shall bear the costs of such change.
- (vi) Notwithstanding the express or deemed approval by DMA or Independent Engineer, the Developer shall be solely responsible for any defect and/or deficiency in the DPR or any part thereof and accordingly the Developer shall at all times remain responsible for its

- obligations under this Agreement.
- (vii) Any Designs and Drawing or specifications provided by DMA to the Developer shall only be indicative and the Developer shall accept the same at its sole risk, cost and consequence.
 - (viii) Any civil or other engineering review conducted by DMA or the Independent Engineer is solely for DMA's own information and that by conducting such review, DMA does not accept any responsibility for the quality or workmanship of any civil or other engineering or soundness of the work relating to the Project Facilities done by the Developer or any part thereof. DMA shall not be responsible or liable in any manner for the accuracy, completeness or otherwise of the DPR or the construction and implementation of the Works by the Developer on the basis thereof, irrespective of any perusal or review thereof or comment thereon by DMA, any Competent Authority or the Independent Engineer.
 - (ix) The Developer shall in no way represent to any Person that, as a result of any review by DMA or the Independent Engineer, DMA has accepted responsibility for the engineering or soundness of any work relating to the Project Facilities or part thereof carried out by the Developer and the Developer shall, subject to the provisions of this Agreement, be solely responsible for the technical feasibility, operational capability and reliability of the Project Facilities or any part thereof.
 - (x) Within 90 (ninety) days of completing construction of the Project, the Developer shall furnish to DMA three copies of "as built" drawings reflecting such facility as actually designed, engineered and constructed, including without limitation an "as built" survey illustrating the layout of such facility and setback lines, if any, of the buildings and structures forming part thereof.

9.2 MOBILISATION AND COMMENCEMENT

- (a) The rights and obligations of the Parties under this Agreement shall commence from the Compliance Date. Any works of whatever nature, which the Developer elects to carry out prior to the Compliance Date including design or mobilisation, shall be entirely at the risk and cost of the Developer.
- (b) The Developer shall mobilize its manpower, plant, equipment, materials and resources within 30 (thirty) days of the Compliance Date.
- (c) Prior to commencement of construction the Developer shall:
 - (i) Submit to DMA/Independent Engineer with due regard to the Project Implementation Schedule and Scheduled Construction Completion Date, its design, engineering and construction time schedule created using precedence network techniques, construction methodology outlining, inter alia, the quality assurance, safety and surveillance plan and programme of works and shall formulate and provide Critical Path Method (CPM)/ Project Evaluation and Review Technique (PERT) charts for the completion of the said activities;
 - (ii) Have requisite organization and designate and appoint suitable officers/ representatives, as it may deem appropriate to supervise the Project and to deal with DMA/ Independent Engineer.
- (d) Within 30 (thirty) days of the Compliance Date, the Developer shall develop and institute a quality assurance system and implement the same until the end of the Concession Period. The quality assurance system shall involve maintenance of appropriate records, documents and data, charts, samples etc. regarding the construction of the Project. DMA or any nominee of DMA shall have the right to inspect, periodically or at random, such records, documents and data etc. and as applicable to make copies thereof, verify the samples or take measurements. The Developer agrees to provide full co-operation to DMA and DMA's nominee in this behalf.
- (e)

9.3 CONSTRUCTION OF THE PROJECT

- (a) Prior to commencement of construction of the Project the Developer shall successfully demonstrate to the satisfaction of DMA, a pilot project of 2 blocks comprising minimum 32 dwelling units within 4 months from the Compliance Date on the land provided by DMA for the purpose. The Developer shall commence construction works for the Project Works relating to the Project within 30 (thirty) days of approval by DMA for this pilot project.
- (b) The Developer shall construct, install and establish the Project, including the basic and detailed engineering, design, completion, testing and commissioning in accordance with the provisions of this Agreement, including the Approved DPR, Project Implementation Schedule, the Scope of Work, the Developmental Standards, Applicable Laws, terms of Clearances and Good Industry Practice and after obtaining, as applicable, the sanction to the building plan, with necessary designs, plans and specifications from the proper municipal or other authority, at its own expenses.
- (c) The Developer shall arrange the power, water and other utilities as may be required for execution and implementation of the Construction Works at its cost and expense.
- (d) The Developer shall be responsible for the design and programming of the Construction Works and for the accuracy and completeness of the information used for such design and programming in accordance with the requirements established in the Developmental Standards. The Developer shall be responsible for any discrepancies, errors or omissions in the data, specifications, drawings and other technical documents that it has prepared or procured, whether the same have been approved, deemed to be approved or not approved by DMA or any Competent Authority.
- (e) The Developer shall ensure that all contract(s) and arrangement(s) entered into in relation to the Construction Works shall (to the extent such provisions can be reasonably obtained in the market concerned) include provisions whereby the relevant Subcontractor warrants that each part of such works carried out there under shall be fit for its purpose and free from all defects in design, workmanship and materials.
- (f) The Developer shall ensure that the Works shall comprise only materials, goods and workmanship which are of sound quality and which have been manufactured and prepared in accordance or are in conformity, as the case may be, with the Developmental Standards and Good Industry Practice and that each part of the Works shall be fit for the purpose for which it is required as stated in or as may be reasonably inferred from the such plans.
- (g) The Developer shall ensure that in fulfilling its obligations hereunder it shall procure, as required, the appropriate proprietary rights, licenses, agreements and permissions for the designs, software, materials, methods, processes and systems used or incorporated into the Works undertaken by it and indemnify and keep indemnified DMA and its advisors and consultants against all costs, damages, liabilities or consequences arising out of any breach by the Developer in this behalf.
- (h) In the execution of the Construction Works, the Developer shall procure coordination amongst and avoidance of conflicts in the working of the Subcontractors, including all types of suppliers, agents and consultants. The Developer shall monitor and supervise the activities of the Subcontractors, retained by it to fulfill its obligations hereunder, under the terms of their respective agreements.
- (i) The Developer shall carry out or cause to be carried out the Construction Works with the skill, care and diligence to be expected of appropriately qualified and experienced professional designers, engineers and contractors with experience of work similar in scope and nature to that

- required under this Agreement. The Developer shall design, engineer and execute the construction and implementation of the Works using the best design and engineering principles and practices.
- (j) The Developer shall at its responsibility arrange for materials such as bricks, cement, steel, aggregates, soil, bituminous and asphalt materials, chemicals, consumables and any other materials used in undertaking the Works, as well as equipment, machinery, tools and ancillary materials such as shuttering and scaffolding, bearings, joint fillers and similar materials. The Developer shall make arrangements for transport, loading and unloading, stacking and proper storage (including making sheds) for all materials and equipment. The Independent Engineer shall have the right to inspect and check the quality and quantity of the materials and equipment and their storage in compliance with the terms of this Agreement.
 - (k) The Developer shall be solely and exclusively responsible for the recruitment, transportation, accommodation, catering, payment of the salaries, wages and other payments and costs incidental thereto, health, hygiene, safety etc. and all taxes, charges, levies, duties payable under Applicable Laws arising from the respective terms and conditions of employment of all labor and personnel employed on or connected with the Project, Works or the Site under or through whatever legal relationship.
 - (l) The Developer shall ensure that at all times during the Construction Period for Project, a resident general manager, notified in writing and acceptable to DMA, having appropriate experience in like works shall remain in residence at Project Site, and take charge of and monitor, oversee and ensure the construction of the Works, as notified in writing to DMA (the **“Developer’s Representative”**). The Developer’s Representative may only be changed after notification to DMA of such change and appointment of a replacement in such representative’s place with the prior written approval of DMA.
 - (m) During the Construction Period for Project, the Developer shall organise on the Site and be responsible for support activities including safety precautions, fire protection, security, transportation, delivery of goods, materials, plant and equipment, control of pollution, maintenance of competent personnel and labour and industrial relations and general site services including, without limitation, access to and on the Site and shall be liable for the safe storage and handling of and removal from the Site of all toxic and hazardous materials and substances.
 - (n) The Developer shall make its own arrangements at its cost for quarrying, if necessary, and observe and fulfill the environmental and other requirements under the Applicable Laws and Clearances. The Developer shall also remove and shift the utilities and structures at, on or under the Site at its cost and expense.
 - (o) The Developer shall confine its activities to the Site and to any additional areas arranged by the Developer at its cost and not encroach upon, damage or degrade adjacent land and be liable for all costs and consequences for its failure to do so.
 - (p) The Developer shall promptly remove from the Site in accordance with Good Industry Practice all surplus construction machinery and materials, waste materials (including, without limitation, hazardous materials, all types of solid and liquid waste), rubbish and other debris, and keep the Site in a neat and clean condition and in conformity with the Applicable Laws and Clearances.
 - (q) The Developer shall within 30 (thirty) days of Construction Completion for the site, clear the Site of all temporary structures, labour camps, site offices, utility lines and surplus or unused materials, plant, equipment or tools, etc.
 - (r) The Developer shall give priority to safety in its construction and planning activities in order to protect life, health, property and environment.
 - (s) For the purposes of determining that the construction of the Project is being undertaken in accordance with Developmental Standards and Good Industry Practice and for quality

assurance, the Developer shall carry out such tests at such time and frequency and in such manner as may be required by DMA or as may be necessary in accordance with Good Industry Practice. The Developer shall with due diligence carry out all such tests in accordance with the instructions and under the supervision of the Independent Engineer. The Developer shall promptly carry out such remedial measures as may be necessary to cure the defects or deficiencies, if any, indicated in such test results. The Developer shall promptly report to the Independent Engineer the remedial measures taken by it to cure the defects/deficiencies if any indicated in the test results.

- (t) If the Independent Engineer reasonably determines that the rate of progress of the construction of the Project is such that the Construction Completion is not feasible on or before the Scheduled Construction Completion Date, it shall so notify the Developer. Thereupon, the Developer shall within 15 (fifteen) days thereof notify the Independent Engineer about the steps it proposes to take to expedite progress and the period within which it shall achieve Construction Completion.
- (u) The Developer shall execute the Construction Works in accordance with the Project Implementation Schedule and achieve Construction Completion by the Scheduled Construction Completion Date, unless such time has been extended in accordance with provisions hereof.

9.4 PROGRESS REVIEW DURING CONSTRUCTION

- (a) During the Construction Period for Project, the Developer shall, on or before the 15th (fifteenth) day of every month, prepare and submit to the Independent Engineer and DMA a monthly progress report, for the previous month, in the form and manner prescribed by the Independent Engineer from time to time along with such other relevant information as may reasonably be required by DMA or the Independent Engineer. Such report shall describe the progress of the design, procurement, completion and commissioning of the Project.
- (b) The Developer shall also submit to the Independent Engineer, with a copy endorsed to DMA, the relevant DPR and other technical information as may be reasonably necessary to determine and confirm compliance with the Developmental Standards.
- (c) The Developer shall promptly carry out at its cost such further works as may be necessary to remove the defects and deficiencies observed by the Independent Engineer and ensure completion of construction of the Project in all respects in accordance with the provisions of this Agreement.

9.5 CONSTRUCTION COMPLETION

- (a) The Project shall be deemed to be complete only when DMA issues the Provisional Certificate or the Completion Certificate in consultation with the Independent Engineer in accordance with the provisions of Clause 9.6 (the “**Construction Completion**”).
- (b) The Developer guarantees that the Construction Completion for the Project shall be achieved in accordance with the provisions of this Agreement on a date not later than period specified in the Schedule 14 from the Compliance Date (the “**Scheduled Construction Completion Date for Project**”).
- (c) In the event that any of the Project Milestone specified in Schedule 5 is not completed by its schedule date, unless the delay is on account of reasons solely attributable to DMA or due to Force Majeure or due to an increase in scope of work as certified by an Independent Engineer, the Developer shall subject to sub-clause (d) below, pay to DMA damages for delay beyond the its scheduled date to the extent of 6% of the Performance Security amount per month, for every month of delay for a maximum period of 12 (twelve) months after which DMA shall be entitled to terminate this Agreement. Provided that nothing contained in this sub-clause (c) shall be

deemed or construed to authorize any delay by the Developer in achieving Construction Completion of Project.

- (d) In the event of termination as per Clause 9.5(c), DMA shall be entitled to invoke the Performance Security and to terminate this Agreement for a Developer Event of Default in accordance with the provisions of Article 14 hereof. Provided that instead of terminating this Agreement, DMA may at its sole option extend the time for achieving Construction Completion of Project on such terms and conditions as it deems fit in its sole discretion.

9.6 TESTS

- (a) At least 30 (thirty) days prior to the likely Construction Completion, the Developer shall notify DMA and the Independent Engineer of the same and shall give notice to it of its intent to conduct the Tests. The Developer shall give DMA and the Independent Engineer at least 10 (ten) days prior notice of the actual date on which it intends to commence the Tests and at least 7 (seven) days prior notice of the commencement date of any subsequent Tests. Such notice will set out the place, date and time when such Tests. It shall be compulsory for the Independent Engineer to attend the Tests. DMA may designate a representative with suitable qualifications and experience to witness and observe the Tests.
- (b) Within seven days from the date of inspection in accordance with sub-clause (a) above, DMA shall in consultation with the Independent Engineer issue a provisional certificate (the **“Provisional Certificate”**) on successful completion of the Tests if the Project, or any part thereof, to the Independent Engineer’s reasonable satisfaction, can legally, safely and reliably be opened for Commercial Operations despite certain items of work or things forming part thereof (being within the Scope of Works) not being complete as such works and things do not, in any manner whatsoever, affect the safety or usability of the Project in any material respect. In such an event, the Provisional Certificate shall have appended thereto a list of outstanding items signed jointly by DMA, Independent Engineer and the Developer (the **“Punch List”**).
- (c) The Developer shall complete or cause to be completed the Punch List Items appended to the Provisional Certificate within a period of 30 (thirty) days from the date of issue of the Provisional Certificate and, upon completion thereof, the Developer shall notify the Independent Engineer. The Independent Engineer shall, within 7 (seven) days of receipt of such notice, inspect the Project and confirm completion of the Punch List Items to DMA and DMA shall issue the construction completion certificate (the **“Completion Certificate”**).
- (d) In the event of the Developer’s failure to complete the Punch List items within the stipulated period of 30 (thirty) days from the date of issue of the Provisional Certificate, DMA may, without prejudice to any other rights or remedy available to it under this Agreement or at law, have such items completed at the risk and costs of the Developer. The Developer shall reimburse to DMA on demand the entire costs incurred by DMA in completing the Punch List items, failing which DMA shall have the right to appropriate the relevant amounts from the Performance Security and/or set off any amounts due and payable by DMA to the Developer to the extent required/available and to recover the deficit amount, if any, from the Developer.
- (e) The Developer shall bear all the expenses relating to Tests under this Agreement. The Independent Engineer shall have the right to suspend or postpone any Test if it is reasonably

anticipated or determined during the course of the Test that the performance of the Projector any part thereof does not meet the Developmental Standards.

- (f) Whenever obligatory inspection by the concerned Competent Authorities is required, the same shall be arranged and attended to by the Developer or its Subcontractors or authorised representatives. DMA shall provide the necessary facilitation in this behalf. All the deficiencies pointed out by the concerned Competent Authorities during the inspection shall be promptly attended by the Developer at its cost to the entire satisfaction of the inspecting authorities.

9.7 *Handover of Project Assets*

The Developer shall, within 15 days of issue of Completion Certificate for a site, handover the Project Assets of such site to DMA, and Factory Land within 6 months of the issue of Completion Certificate for all the land parcels comprising the Project Site including all rights, interests and title therein or thereto, for ownership, possession, occupation and use thereof by DMA or its nominated agency in such manner as DMA in its sole discretion deems fit.

9.8 *CHANGE OF SCOPE*

- (a) DMA may, notwithstanding anything to the contrary contained in this Agreement, require provision of such additional works and services on or about the Project which are beyond the Scope of Works (the "**Change of Scope**"), Provided such changes do not require expenditure exceeding 25% (twenty five percent) of the Total Project Cost and do not adversely affect the Scheduled Project Completion Date. All such changes shall be made by DMA by an order (the "**Change of Scope Order**") issued in accordance with the procedure set forth in sub-clause (c) to (i).
- (b) DMA shall whenever it desires provision of additional works and services referred to in sub-clause (a) above, issue to the Developer a notice of Change of Scope (the "**Change of Scope Notice**") through the Independent Engineer.
- (c) Upon receipt of Change of Scope Notice, the Developer shall, within a period of 15 (fifteen) days, provide to DMA and the Independent Engineer such information as is necessary and reasonable together with preliminary documentation in support of the following:
 - (i) The impact which the Change of Scope is likely to have on the Project Implementation Schedule if the work is required to be carried out before the Construction completion, and
 - (ii) The cost to the Developer of complying with such Change of Scope Notice on account of increases in quantities of items of work, material and labour costs along with an analysis of rates (as per current schedule of rates applicable to works assigned by DMA to its contractors, including premium on such rates) for carrying out such items of work; the options suggested for implementing the proposed Change of Scope and the effect, if any, of each such option on the cost and time for its implementation.

Provided that the cost of providing such information shall be reimbursed by DMA to the Developer to the extent the same are certified as reasonable by the Independent Engineer.

- (d) The Independent Engineer shall review the information provided by the Developer, assess the change in quantities of items of work, verify the analysis of rates if required, settle the rates and quantities and approve the designs (without DMA being liable in any manner for such approval), determine the additional cost resulting from such change that shall be payable by DMA to the Developer. Provided that the final cost computation shall be made by taking into

- account the actual work executed as measured and certified by the Independent Engineer at the settled rates.
- (e) The Independent Engineer shall communicate its recommendation to DMA within a period of 15 (fifteen) days from the receipt of information from the Developer.
 - (f) DMA shall, on the basis of the recommendation of the Independent Engineer, issue the Change of Scope Order within a period of 15 (fifteen) days from the date of recommendation made by the Independent Engineer in accordance with preceding sub-clause (e) above.
 - (g) The Change of Scope Order shall be effective and binding upon receipt thereof by the Developer. Notwithstanding a dispute regarding cost and time for implementation of such order, the Developer shall proceed with the performance of such order promptly following receipt thereof. Any such dispute shall be resolved in accordance with the Dispute Resolution Procedure. Pending resolution of the dispute, DMA shall pay to the Developer an amount equal to the costs certified by the Independent Engineer in case the Change of Scope involves an increase in the bill of quantities.
 - (h) All claims by the Developer pursuant to this Article 9.8 shall be supported by such documentation as is reasonably sufficient for DMA/Independent Engineer to determine the accuracy thereof, including invoices from Subcontractors and certification of such claims by the Statutory Auditors.
 - (i) DMA shall pay to the Developer the amounts certified as the additional cost by the Independent Engineer in periodic instalments as per the milestones determined by the Independent Engineer at the settled rates on the basis of actual work executed as measured and certified by the Independent Engineer.

9.9 MONITORING AND INSPECTION

(a) Independent Engineer

i.) Appointment and Remuneration

- 1) DMA shall appoint a consulting engineering firm to be the independent consultant under this Agreement (the "Independent Engineer" or "IE"). The appointment shall be made no later than 90 (ninety) days from the date of this Agreement and shall be for a period of 3 (three) years. On expiry or termination of the aforesaid period, DMA may in its discretion renew the appointment, or appoint another firm from a fresh panel to be the Independent Engineer for a term of 3 (three) years, and such procedure shall be repeated after expiry of each appointment.
- 2) DMA shall notify the Developer in writing of the appointment and identity of the IE and of any replacement thereof from time to time. where necessary, the IE may in turn appoint suitably qualified sub-consultants or sub-contractors to undertake and perform any of the IE's functions as contemplated under this Agreement.
- 3) The remuneration, cost and expenses of the Independent Engineer shall be paid by DMA, one-half of such remuneration, cost and expenses shall be reimbursed by the Developer to DMA within 15 (fifteen) days of receiving a statement of expenditure from DMA

ii.) Termination of Appointment

- 1) DMA may replace the Independent Engineer in any of the following reasons by giving at least 30 days written notice:
 - (a) if, in accordance with the terms of its appointment the Independent Engineer resigns or notifies its intention not to continue as the Independent Engineer;

- (b) if, DMA has reason to believe that the Independent Engineer has not discharged its duties in a fair, appropriate, efficient and diligent manner;
- (c) If the Developer has reason to believe that the Independent Engineer is not discharging its duties and functions in a fair, efficient and diligent manner, it may make a written representation to DMA, supported with necessary documents, and seek termination of the appointment of the Independent Engineer. Upon receipt of such representation, DMA shall hold a tripartite meeting with the Developer and Independent Engineer for an amicable resolution of the Dispute, and if any difference or disagreement between DMA and the Developer remains unresolved, the Dispute shall be settled in accordance with the Dispute Resolution Procedure. In the event that the appointment of the Independent Engineer is terminated hereunder, DMA shall appoint forthwith another Independent Engineer as provided below.

- 2) The replacement of the Independent Engineer shall be effected so as to maintain the continuity in supervision and monitoring of the Project Facility by the Independent Engineer.

(b) Dispute Resolution

If either Party disputes any advice, instruction, decision, direction or award of the Independent Engineer, or, as the case may be, the assertion or failure to assert jurisdiction, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

(c) Inspection

- (i) Notwithstanding any provisions of this Agreement and without prejudice to any of the other rights vested under the provisions hereof, DMA, the Independent Engineer, any Competent Authority and any Person authorised by either of them shall during the Concession Period at all reasonable times and upon reasonable notice have access to the Project Site and the Project Facilities to inspect and examine the materials, plant, equipment and workmanship and all the documents, reports, data, books, accounts, information for compliance thereof with the provisions hereof and to check the progress of the works or for performing statutory duties and the Developer shall provide the necessary cooperation and assistance to them in this behalf.
- (ii) DMA and Independent Engineer shall be entitled, during fabrication, construction or preparation at any places where Works are being carried out, to inspect, examine and test the materials and workmanship, and to check the progress thereof of all works under this Agreement. The Developer shall give DMA and Independent Engineer full opportunity to inspect, examine, measure and test any work on the Site or wherever carried out.
- (iii) The Developer shall give due notice to DMA and Independent Engineer whenever such work is ready, before packaging, covering up or putting out of view, including foundation works. The Independent Engineer and DMA shall then respond to the Developer with their intention to either carry out the inspection, examination, measurement or testing within 14 (fourteen) days, or notify that it is considered unnecessary. If the Developer fails to give such notice, it shall, when required by the Independent Engineer, uncover such work and thereafter reinstate and make good the same at its own cost.
- (iv) If the Independent Engineer or DMA fail to respond to the Developer's notice within 14 (fourteen) days of receiving the notice, it shall be deemed to imply that they do not consider it necessary to inspect the work mentioned in the notice.
- (v) DMA shall also have the right, without prejudice to the aforesaid, to carry out surprise

checks of the works, operations and documents and records relating to the Project.

(d) Testing During Concession Period

- (i) DMA and/or the Independent Engineer may during the Concession Period conduct or cause to be conducted through Third Parties or require the Developer to conduct such tests in respect of the Project as are may be required pursuant to the Developmental Standards and Good Industry Practice or as it/they may reasonably deem appropriate.
- (ii) The Developer shall provide the necessary documents and other information and such assistance, labour, materials, consumables, electricity, fuel, stores, apparatus and instruments as may reasonably be required to carry out such tests. The Developer shall provide engineering support and technical know-how as necessary to carry out such tests.
- (iii) Such tests shall be held in the presence of DMA and/or the Independent Engineer, who shall verify the result thereof and in the event of the tests being successful issue the certificate of compliance.
- (iv) The cost of such tests shall be borne by the Developer.
- (v) If, as a result of such tests, DMA and/or the Independent Engineer decides that any plant, materials, consumables, design, process or workmanship relating to the Project is defective or otherwise not in compliance with the Developmental Standards and Good Industry Practice, DMA and/or the Independent Engineer may reject such plant, materials, consumables, design, process or workmanship and shall forthwith notify the Developer with reasons for rejection and require correction of such defects within the stipulated time.
- (vi) The Developer shall make good such notified defects within the stipulated time, and undertake re-testing, if any, at its cost that may be required by DMA and/or the Independent Engineer. In the event that the Developer fails to repair, replace or rectify such defects within a period of 15 (fifteen) days from the date of notice issued by DMA/ Independent Engineer in this behalf, DMA shall be entitled to get the same repaired, replaced or rectified at the Developer's risk and cost so as to ensure that the Project is in conformity with the Developmental Standards. All costs incurred by DMA in this behalf shall be reimbursed by the Developer to DMA within 15 (fifteen) days of receipt of demand in this behalf.
- (vii) DMA shall be entitled to appropriate the relevant amounts necessary to secure performance of the Developer's obligations under this Clause 9.9(d) from the Performance Security.
- (viii) Any such inspection or testing by DMA, the Independent Engineer or any Competent Authority shall not relieve or absolve the Developer of its obligations and liabilities hereunder in any manner whatsoever.

(e) Reporting Requirements

The Developer shall, in addition to the reporting requirements set forth elsewhere in this Agreement, comply with the reporting requirements hereunder. DMA may from time to time specify any changes in the formats or periodicity for any reports. The Developer shall be liable for and shall indemnify, protect, defend and hold harmless, DMA, DMA's officers, employees and agents from any liability, costs, expenses, settlements and judgements arising out of any failure to prepare and submit reports in accordance with the requirements of law, directive or clearance

(i) Construction Period Reports

The Developer shall provide to DMA and the Independent Engineer a monthly progress report during the Construction Period for Project, which shall contain the following information

- (A) Summary of Progress: summary of the progress of the Project for that month which shall detail:
- 1) any areas of significant concern and the action being taken to resolve any significant difficulties;
 - 2) the actual progress made during that month against the construction schedule including a description in reasonable detail of the work carried out;
 - 3) any matters which have come to light which are likely materially and adversely to affect the construction of the Project;
 - 4) any potential or actual deviations from the construction schedule, the Developmental Standards and Good Industry Practice or otherwise confirmation that construction is proceeding in accordance therewith; and
 - 5) a commentary on the progress plan;
- (B) Budget Analysis: showing actual expenditure in that month against the relevant budget for that period and detailing the remaining costs of the Project and the means of financing available to cover such costs;
- (C) Completion: details of any changes to the proposed date of completion of construction of the Project Facility and the reasons for such changes; and
- (D) Clearances: written confirmation that all Clearances then required are in full force and effect including a list of such clearances.

(ii) Additional Information

The Developer agrees to provide DMA and the Independent Engineer such further information as any of them may reasonably request in order for them to monitor the progress and performance of the Project.

The Developer shall also provide DMA with such reports, which are required to comply with the instructions of Competent Authority or the standing procedures for any clearance, etc.

(iii) Other Information

The Developer will provide the following information to DMA promptly after becoming aware of it:

- a. Force Majeure: details of any Force Majeure Event which has occurred or which is imminent and fortnightly updates with respect to it as long as it continues or is imminent;
- b. Litigation: details of any actual, pending or threatened material litigation, arbitration, claim or labour dispute;
- c. Legislation: details of contravention of any Applicable Law or with the terms of any Clearance and any fines or penalties that have or may thereby be incurred;
- d. Notices: All penalties or notices of violation issued by any Competent Authority; and
- e. Financial Condition: notification of any adverse material change in the financial condition of the Developer or the Project promptly following such occurrence.

9.10 NO BREACH

- (a) The Developer shall not be considered to be in breach of its obligations herein nor shall it incur or suffer any liability if and to the extent performance of any such obligations is affected by or on account of any of the following:
- (i) Force Majeure Events, subject to provisions of Article 12;
 - (ii) DMA Event of Default or any other material act or omission of DMA in contravention of its obligations under this Agreement or a material delay, impediment, default or prevention due to or caused by DMA or any Competent Authority;

- (iii) Compliance with the instructions or directions of DMA/Independent Engineer/ any Competent Authority other than instructions issued as a consequence of a breach or default by the Developer of any of its obligations hereunder;
 - (iv) extensions granted under the provisions of this Agreement, or specific extensions granted by DMA or extensions made by the mutual agreement of the Parties;
 - (v) Measures taken to ensure the safe use of the Project Facilities except when the unsafe conditions have been occasioned by the Developer's failure to perform its obligations under this Agreement.
- (b) In the event of delay due to circumstances set forth in sub-clause (a) above, the Developer shall be relieved of its obligations to the extent of such delay and, upon written request, be granted an extension of the time equal to the period of delay, as certified by the Independent Engineer, for fulfilling its obligations relating to the Project.

9.11 RWA Formation

- (a) The Developer shall assist DMA in formation of a resident welfare association (RWA) of the residents of the Project. Subsequent to the formation of RWA, maintenance of the dwelling units in Project complex shall be the responsibility of the RWA.
- (b) The Developer shall also contribute to Initial Maintenance Fund of the RWA of an amount equivalent to Rs.1/sq ft/ dwelling unit.

ARTICLE 10: FINANCIAL COVENANTS

10.1 FORM OF FINANCES

- (a) The Developer shall be responsible for arranging all the financing in the form of equity, debt or otherwise as required for implementing the Project.
- (b) DMAs hereby agrees that for the purpose of raising financing for the Project, the Developer may assign all its rights, title, interest and benefits under this Agreement, limited to the extent of such rights herein, to or in favour of the Lenders in accordance with the provisions of this Agreement. The Developer shall not create nor permit to subsist any Encumbrance over the Project Site, except as envisaged under this Agreement. Provided that in the event of the termination of this Agreement such assignment shall stand extinguished. It is further clarified that the Project Site has to be handed over to DMA at the end of the Concession Period free of all encumbrances. Provided further nothing contained in this sub-clause (b) shall (i) absolve the Developer from its responsibilities to perform/discharge any of its obligations under and in accordance with the provisions of this Agreement; (ii) shall authorise or be deemed to authorise the Lenders to implement and execute Project Facilities themselves and (iii) under any circumstances amount to any guarantee from or recourse to DMA.
- (c) Except as stated in sub-clause (b) above as may otherwise be provided elsewhere in this Agreement, the Developer shall not, without the prior written consent of DMA, (i) assign in favour of any Person this Agreement or its rights, title, interest, benefits or obligation hereunder or create a security interest with respect to its rights under the Agreement or any part thereof in favour of any Person; or (ii) mortgage, assign, transfer, lease, sub-lease, license, sub-license or otherwise alienate or dispose off in any form, manner or arrangement whatsoever the Project Site/Project or any part thereof.
- (d) The restraint set forth in sub-clause (c) above shall not apply to:
 - (i) liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Developer;
 - (ii) pledges/hypothecation of goods/movable assets, revenue and receivables and their related documents of title arising in the ordinary course of business of the Developer as security only for indebtedness to the Lenders, which shall include step in rights, under the Financing Documents and/or for working capital arrangements for the Project;
 - (iii) liens and encumbrances required by the Applicable Law;
 - (iv) Assignment of Developer's rights, benefits and interest under this Agreement to or in favour of the Lenders under this Agreement as security for the financial assistance provided by them.
- (e) The Developer shall not assign in favour of any person any right or benefit that has not been provided to the Developer by DMA. It is clarified that freehold rights or leasehold rights to the Project Site/s is not being given to the Developer and the same cannot be mortgaged to raise funds.
- (f) Notwithstanding anything contained in Article 10.1 the rights of the Developer shall not be contrary or in derogation to the provisions relating to Divestment Requirements contained in Article 14.6.

10.2 ASSIGNMENT BY DMA

Notwithstanding anything to the contrary contained in this Agreement, DMA may, after giving 60 (sixty) days' notice to the Developer, assign any of its rights and benefits and/or obligations under this Agreement pursuant to any direction of GoJ or by operation of law or in the course of its business.

10.3 AUDIT AND ACCOUNT

(a) Appointment of Auditors

- (i) The Developer shall appoint and have during the subsistence of this Agreement, as its statutory auditors, a reputed firm of chartered accountants duly licensed to practice in India. All fees and expenses of the statutory auditors shall be borne by the Developer.
- (ii) Any claim or document provided by the Developer to DMA relating to receipts, income, payments, costs, expenses, accounts or audit, and any matter incidental thereto, in connection with the Project shall be valid and effective only if certified by the Developer's statutory auditors.
- (iii) The Developer shall extend full co-operation to the statutory auditor.
- (iv) All contracts, books, records, documents and vouchers relating to the construction, operation and maintenance of the Project shall be open to inspection by such statutory auditor. Any information secured as a consequence of such examination shall be kept confidential by all concerned.
- (v) The Developer may terminate the appointment of its statutory auditors after a notice of 45 (forty five) days to DMA, subject to the replacement of statutory auditors being appointed.
- (vi) Notwithstanding anything to the contrary contained in this Agreement, DMA shall have the right, but not the obligation, to appoint at its cost from time to time and at anytime through a competitive bidding process, another reputed firm of chartered accountants duly licensed to practice in India (the "**Additional Auditors**") to audit and verify all those matters, expenses, costs/ allocation of costs during the subsistence of Force Majeure, realisations, Termination Payments, etc. and things which the Statutory Auditors are required to do, undertake or certify pursuant to this Development Agreement. The Parties agree that the Additional Auditors so appointed shall have the status of an expert whose reports and decisions shall be final and binding on the Parties, save in the case of manifest error or fraud.

(b) Maintenance of Accounts

- (i) The Developer shall, during the subsistence of this Agreement, in a format approved by DMA, and on generally accepted Indian accounting principles, maintain books of account recording all its receipts from all sources derived or on account of the Project, income, expenditure, and payments; and assets and liabilities, in accordance with this Agreement, the Applicable Laws and Good Industry Practice.
- (ii) The Developer shall provide DMA 2 (two) copies of its audited balance sheet and profit and loss account along with a report thereon by its statutory auditors, within 120 (one hundred and twenty) days of the close of the Financial Year to which they pertain.
- (iii) The Developer shall establish and maintain a daily and monthly reporting system to provide storage and ready retrieval of data related to the construction and operation of Project Facilities, including all such information which is necessary to verify costs and expenses incurred or revenues earned and to confirm that the Developer is in compliance with its obligations under this Agreement. The Developer shall provide copies of such reports to DMA within five days of the end of each month.
- (iv) The Developer shall retain and store on the premises for a period of ten years all records

relating to the Project, which shall be the property of DMA. The Developer shall provide support to DMA to meet all the data requirements of all competent authorities.

10.4 PAYMENT TO DEVELOPER

- (a) DMA shall pay to the Developer an amount of Rs. _____ (Rupees _____ only) per square sq ft of carpet area of the dwelling unit towards the construction of housing component of the Project. For each land parcel of the Project Site, the payment under the head shall be calculated by multiplying it with the carpet area of all the dwelling units in such land parcel.
- (b) The payments shall be made as follows:

1	On handover of Project Assets for the site for which Completion Certificate has been issued	<ul style="list-style-type: none"> Rs. 1.5 lakh (Rupees One Lakh Fifty Thousand Only) per dwelling unit as Government of India Share Cost of one dwelling unit less the Government of India and Government of Jharkhand Share amounting to Rs. 2.25 lakhs (Rupees Two Lakh Twenty Five Thousand Only) by the beneficiary (i.e. to whom the dwelling unit would be allotted)
2	Subsequent to the Project Completion	<ul style="list-style-type: none"> The Government of Jharkhand Share of Rs. 75000/- plus the interest (based on the interest rate quoted by the Selected Bidder) shall be payable in 8 (eight) equated half yearly instalments ("Instalment Amount") payable in May and October every year, starting three months after the completion of any project.

- (c) All payments are subject to the application of liquidated damages defined and provided for in this Agreement.
- (d) The Developer hereby expressly authorises DMA to pay any amount due under this Agreement which becomes payable by DMA to the Developer under this Agreement directly into the designated account whose details would be given by the Developer to DMA within 15 days of Compliance Date.

ARTICLE 11: INSURANCE FOR THE PROJECT

11.1 INSURANCE COVER

- (a) The Developer shall during the Concession Period purchase and maintain or cause to be purchased and maintained, at its own expense, insurance policies as are customarily and ordinarily available in India on commercially reasonable terms and reasonably required to be maintained to insure the Project Facilities (which are not handed over to DMA) and all related assets against risks in an adequate amount, consistent with similar facilities of the size and type of the Project and as may be required by the Lenders (the “**Insurance Cover**”).
- (b) The Insurance Cover shall be made assignable to DMA and the respective insurance policies shall contain a specific stipulation to that effect. Upon the termination of this Agreement, all such insurance policies and benefits there under shall forthwith stand transferred and assigned to DMA and DMA alone shall be entitled to the receipt of all amounts receivable under such policies.
- (c) Without limiting the generality of the foregoing, the Developer shall, at its cost and expense, purchase and maintain or cause to be purchased and maintained during the Concession Period, and in case of sub-clause (i) below during the Construction Period for Project, such insurances as are necessary, including but not limited to the following:
 - (i) Construction/builders’/contractors’ all risk insurance (during Construction Period);
 - (ii) comprehensive insurance for the Project Assets for their full market value or replacement cost;
 - (iii) comprehensive third party liability insurance, including injury or death of Persons who may enter the Site;
 - (iv) workmen’s’ compensation insurance;
 - (v) any other insurance that may be necessary to protect the Developer, the Persons claiming through or under it, its employees and its assets (against loss, damage or destruction at replacement value) including all Force Majeure Events that are insurable and not otherwise covered in items (i) to (iv).

11.2 EVIDENCE OF INSURANCE

- (a) The Developer shall, from time to time, furnish to DMA copies of all insurance policies in respect of the Insurance Cover (or appropriate endorsements, certification of other satisfactory evidence of insurance) as soon as reasonably practical after they are received by the Developer and furnish evidence to DMA that all premiums have been paid and that the relevant policies remain in existence. Each insurance policy shall provide that the same shall not be cancelled or terminated unless 10 (ten) days’ clear notice of cancellation is provided to DMA in writing.
- (b) In the event the Developer does not maintain any Insurance Cover pursuant hereto, DMA may, at its option, effect such insurance and the Developer shall reimburse all the costs and expenses incurred in this behalf by DMA within 15 (fifteen) days of receipt of DMA’s claim in respect thereof, failing which the same shall be recovered by DMA by exercising right of set off or from the Performance Security or otherwise. In case of such failure on the part of the Developer, DMA shall not be liable for damages or claims and the Developer shall indemnify DMA for and against all liabilities, costs and expenses arising out of or as a consequence of such failure.

11.3 APPLICATION OF INSURANCE PROCEEDS

Unless otherwise provided herein, the proceeds from all insurance claims, except for life and injury, shall promptly be applied for the repair, renovation, restoration or re-instatement of the Project Facilities or any part thereof, which may have been damaged or destroyed.

The Developer may, with prior written consent of DMA, designate the Lenders (providing financial assistance for the Project) as the loss payees under the insurance policies/assign the insurance policies relating to Project in favour of such Lenders as security for the financial assistance provided by them for the Project.

11.4 INSURANCE COMPANIES AND WAIVER OF SUBROGATION

- (a) The Developer shall insure all insurable assets comprised in the Project Facilities through Indian insurance companies and if so permitted by GoI, through foreign insurance companies, to the extent that insurances can be effected with them.
- (b) The premiums payable on insurance coverage as indicated above, including any costs and expenses incidental to the procurement and enforcement of such insurance coverage shall be borne by the Developer.
- (c) All insurance policies supplied by Developer shall include a waiver of any right of subrogation of the insurers there under against, *inter alia*, DMA and its assigns, subsidiaries, affiliates, employees, insurers and underwriters and of any right of the insurers of any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy.

The Developer hereby further releases, assigns and waives any and all rights of recovery against, *inter alia*, DMA and its affiliates, subsidiaries, employees, successors, assigns, insurers and underwriters, which the Developer may otherwise have or acquire in or from or in any way connected with any loss covered by policies of insurance maintained or required to be maintained by the Developer pursuant to this Agreement (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

ARTICLE 12: FORCE MAJEURE

12.1 FORCE MAJEURE EVENTS

Force Majeure Event shall mean any event or circumstance or a combination of events and circumstances (occurring in India) set out hereunder or the consequence(s) thereof which affect or prevent the Party (DMA or Developer) claiming force majeure (“**Affected Party**”) from performing its obligations, in whole or in part, under this Agreement and which event or circumstance (i) is beyond the reasonable control and not arising out of the fault of the Affected Party, (ii) the Affected Party has been unable to overcome such event or circumstance by the exercise of due diligence and reasonable efforts, skill and care, and has a Material Adverse Effect. Such events mean:

(a) Non Political Events

- (i) Acts of God or natural disasters beyond the reasonable control of the Affected Party which could not reasonably have been expected to occur, including but not limited to storm, cyclone, typhoon, hurricane, flood, landslide, drought, lightning, earthquakes, volcanic eruption, fire or exceptionally adverse weather conditions affecting the implementation of the Project.
- (ii) Radioactive contamination, ionizing radiation.
- (iii) Epidemic, famine.
- (iv) An act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action, nuclear blast / explosion, sabotage or civil commotion.
- (v) Industry wide or state wide or India wide strikes or industrial action or disturbances which has a Material Adverse Effect on the Project and which are not on account of acts of the Developer, its Subcontractors or persons claiming through or under it;
- (vi) Any judgment or order of any court of competent jurisdiction or statutory authority in India made against the Developer in any proceedings (which are non collusive and duly prosecuted by the Developer) for reasons other than failure of the Developer or of any Person claiming through or under it to comply with any Applicable Law or terms of Clearances or on account of breach thereof, or of any contract, or enforcement of this Agreement or exercise of any of its rights under this Agreement by DMA;
- (vii) any failure of another service provider to the extent caused by any of the Force Majeure Event mentioned above affecting the performance of the Agreement ; or
- (viii) Any event or circumstances of a nature analogous to any of the foregoing.

(b) Political Events

- (i) A Change in Law to which the provisions of Article 19.15 cannot be applied;
- (ii) Expropriation or compulsory acquisition by any Competent Authority of the Project or part thereof or rights of the Developer relating thereto; provided the same has not resulted from an act or default of the Developer or any Person claiming through or under it.
- (iii) Any unlawful or unauthorized or without jurisdiction revocation of, or refusal to renew or grant without valid cause any Clearance required by the Developer or any of the Subcontractors to perform their respective obligations hereunder (other than a consent the obtaining of which is condition precedent) provided that such delay, modification, denial, refusal or revocation did not result from the Developer’s or any Subcontractor’s (1) inability or failure to comply with any condition relating to grant, maintenance or renewal of such consents or permits; or (2) breach or failure in complying with the provisions hereof, including the Developmental Standards, the Applicable Laws, the terms of

Clearances, any judgement or order or Directive of any Competent Authority or of any contract to which the Developer or such Subcontractor, as the case may be, is bound.

12.2 NOTICE OF FORCE MAJEURE EVENTS

- (a) The Affected Party shall give notice to the other Party in writing of the occurrence of any of the Force Majeure Event (“**the Notice**”) as soon as the same arises or as soon as reasonably practicable and in any event within 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence and the adverse effect it has or is likely to have on the performance of its obligations under this Agreement. The Affected Party shall not be entitled to any relief under the Agreement for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event.
- (b) The Notice shall inter-alia include full particulars of:
 - (i) the nature, time of occurrence and extent of the Force Majeure Event with evidence in respect thereof;
 - (ii) the duration or estimated duration and the effect or probable effect which such Force Majeure Event has or will have on the Affected Party’s ability to perform its obligations or any of them under this Agreement;
 - (iii) the measures which the Affected Party has taken or proposes to take, to alleviate the impact of the Force Majeure Event or to mitigate the damage; and
 - (iv) any other relevant information.
- (c) So long as the Affected Party continues to claim to be affected by a Force Majeure Event, it shall provide the other Party with periodic (fortnightly) written reports containing the information called for by Clause 12.2(b) and such other information as the other Party may reasonably request.

12.3 PERIOD OF FORCE MAJEURE

Period of Force Majeure shall mean the period from the time of occurrence specified in the notice given by the Affected Party in respect of the Force Majeure Event until the expiry of the period during which the Affected Party is excused from performance of its obligations in accordance with Article 12.4.

12.4 PERFORMANCE EXCUSED

The Affected Party, to the extent rendered unable to perform its obligations or part thereof under this Agreement as a consequence of the Force Majeure Event shall be excused from performance of such obligations provided that the excuse from performance shall be of no greater scope and of no longer duration than is reasonably warranted by the Force Majeure Event. Notwithstanding any provision of this Article 12, a Force Majeure Event shall not absolve the Developer from any obligation to make payment in respect of its obligations under this Agreement in the event such payment obligations have arisen or accrued prior to the occurrence of the Force Majeure Event.

12.5 RESUMPTION OF PERFORMANCE

During the Period of Force Majeure, the Affected Party shall in consultation with the other Party, make all reasonable efforts to limit or mitigate the effects of the Force Majeure Event on the performance of its obligations under this Agreement. The Affected Party shall also make efforts to resume performance of its obligations under this Agreement as soon as possible and upon resumption shall notify the other Party of the same in writing. The other Party shall afford all reasonable assistance to the Affected Party in this regard.

12.6 COSTS, REVISED TIMETABLE

(a) Costs

Upon occurrence of a Force Majeure Event after Compliance Date, the cost arising out of such

event shall be allocated as follows:

- (i) When the Force Majeure Event is a Non Political Event, the Parties shall bear their respective costs and neither Party shall be required to pay to the other Party any cost arising out of any such Force Majeure Event;
- (ii) Where the Force Majeure Event is a Political Event, the Force Majeure costs relating to the Project to the extent actually incurred and duly certified by the Statutory Auditors shall be reimbursed by DMA to the Developer in one lump sum not later than 120 (one hundred and twenty) days after the end of the Force Majeure Event and receipt of notice by DMA to that effect.

For avoidance of doubt, "Force Majeure cost" shall be such cost in respect of the Project and shall not include any debt repayment obligations but shall include interest payments on the debt in respect of the Project pursuant to the Financing Documents and all other costs in respect of the Project that are directly attributable to the Force Majeure Event.

(b) Extension of Time

To the extent the performance of the obligations of the Affected Party is affected by the Force Majeure Event, the time period for the performance of the obligations of the Affected Party shall be extended by a similar time period on a day to day basis.

12.7 CONSULTATION AND DUTY TO MITIGATE

The Parties shall consult with each other to determine the reasonable measures to be implemented to minimise the losses of each Party resulting from the Force Majeure Event. Except as specifically stated to the contrary, no Party shall be relieved of its obligations under this Agreement by reason of impossibility of performance or any other circumstance whatsoever beyond its control.

12.8 LIABILITY FOR OTHER LOSSES, DAMAGES ETC.

Save and except as expressly provided in this Article 12, neither party hereto shall be liable in any manner whatsoever to other party in respect of any loss, damage, cost, expense, claims, demand and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant to this Article 12.

12.9 TERMINATION DUE TO FORCE MAJEURE EVENT

If the Period of Force Majeure continues or is in the reasonable judgement of the Parties is likely to continue beyond a period of 6 (six) months, the Parties may mutually decide to terminate this Agreement or continue this Agreement on mutually agreed revised terms. If the Parties are unable to reach an agreement in this regard, the Affected Party shall after the expiry of the period of 6 (six) months, be entitled to terminate the Agreement in which event, the provisions of Article 14 shall, to the extent expressly made applicable, apply.

12.10 DISPUTE RESOLUTION

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure as mentioned in Article 16; provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

ARTICLE 13: EVENTS OF DEFAULT

Event of Default means the Developer Event of Default or DMA Event of Default and/or both as the context may admit or require.

13.1 EVENTS OF DEFAULT

(a) Developer Event of Default

The Developer Event of Default means any of the following events unless such an event has occurred as a consequence of a Force Majeure Event (the **“Developer Event of Default”**):

- (i) the Developer commits a Material Breach of this Agreement and such breach is not cured by the Developer within the specified cure period or if not so specified within 90 days of DMA's notice to the Developer specifying such breach and requiring the Developer to remedy the same.
- (ii) the Developer's failure to perform or discharge any of its obligations under any other Transaction Document which has or is likely to have a Material Adverse Effect.
- (iii) any representation made or warranties given by the Developer/ Consortium Members/Selected Bidder under this Agreement is found to be false or misleading.
- (iv) the Developer, any of its creditors or any other eligible party files for the Developer's liquidation, winding up, receivership, reorganization, compulsory composition or dissolution in case of such a proceeding by a creditor or any other eligible party and such filing is not revoked or discharged within 90 (ninety) days from such filing.
- (v) levy of an execution or distraint on the Developer's assets which has or is likely to have Material Adverse Effect and such execution or distraint remaining in force for a period exceeding 60 (sixty) days.
- (vi) amalgamation of the Developer with any other company or reconstruction or transfer of the whole or part of the Developer's undertaking (other than transfer of assets in the ordinary course of business) without DMA's prior written approval; provided, if the amalgamated entity, reconstructed entity or the transferee, as the case may be, has the financial and technical ability demonstrated to the satisfaction of DMA, to undertake, perform/discharge the obligations of the Developer under this Agreement, DMA shall not unreasonably withhold the necessary approval.
- (vii) the Developer engages or knowingly allows any of its employees, agents, Subcontractor, agent or representative to engage in, in the course of any activity undertaken pursuant to this Agreement, any activity prohibited by law or which constitutes a breach of or an offence under any law.
- (viii) the Developer repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by this Agreement.
- (ix) the Developer has delayed payment that has fallen due under this Agreement, beyond the specified time period or if not so specified beyond 90 (ninety) days of the due date.
- (x) The Developer has failed to make any payment towards damages to any user or any utility within the period specified in this Agreement.
- (xi) the Developer is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Developer or for the whole or material part of its assets at any time before the Construction Completion.
- (xii) the Developer does not attend to or abandons the Project for a consecutive period of 90 (ninety) days or manifests intention to abandon the Project without prior written consent

of DMA.

- (xiii) As a result of any act or omission of the Developer, any lender (for the Project) enforces or initiates measures to enforce any security interest over any of the assets of the Developer, or the shares of the Developer owned by the Selected Bidder/Consortium Members.
- (xiv) the occurrence of a breach identified as an event of default under any Transaction Document.
- (xv) the minimum Equity requirements specified in Clause 7.2.2 are not maintained.
- (xvi) the Developer is in Material Breach of its obligations in relation to the Project.
- (xvii) the Performance Security has been partially or fully invoked and appropriated by DMA as per the Development Agreement and the Developer fails to replenish or provide fresh Performance Security within a Cure Period of 30 (thirty) days.
- (xviii) such events as have been specified as Developer Events of Default under the provisions of this Agreement.
- (xix) the Developer novates and /or assigns the agreement to any third party without any prior approval from DMA.

(b) DMA Event of Default

DMA Event of Default means any of the following events unless such an event has occurred as a consequence of a Force Majeure Event (the **“DMA Event of Default”**):

- (i) DMA is in Material Breach of its obligations under this Agreement such breach is not cured by DMA within the specified cure period or if not so specified within 90 days of the Developer’s notice to DMA specifying such breach and requiring DMA. to remedy the same.
- (ii) Any defect in DMA’s title, ownership and possession of the Project Site.

13.2 RIGHTS OF PARTIES

- (a) Upon the occurrence of the Developer Event of Default, DMA shall without prejudice to any other rights and remedies available to it under this Agreement or law but subject to rights of Lenders herein be entitled to terminate this Agreement.
- (b) Upon the occurrence of DMA Event of Default, the Developer shall without prejudice to any other rights and remedies available to it under this Agreement be entitled to terminate this Agreement.
- (c) Provided that before proceeding to terminate this Agreement, the Party entitled to do so shall give due consideration and shall have due regard to the nature of the underlying Event of Default, its implication on the performance of the respective obligations of Parties under this Agreement and the circumstances in which the same has occurred.

13.3 CONSULTATION NOTICE

Either Party exercising its right under Article 13.2, shall issue to the other Party a notice in writing specifying in reasonable detail the underlying Event of Default(s) and proposing consultation amongst the Parties and the Lenders to consider possible measures of curing or otherwise dealing with the underlying Event of Default (the **“Consultation Notice”**).

13.4 REMEDIAL PROCESS

Following the issue of Consultation Notice by either Party, within a period not exceeding 90 days or such extended period as they may agree (the **“Remedial Period”**) the Parties shall, in consultation with the Lenders, endeavour to arrive at an agreement as to the manner of rectifying or remedying the underlying Event of Default. Without prejudice to this, if the underlying event is a Developer Event of

Default, the Parties shall in consultation with the Lenders endeavour to arrive at an agreement as to one or more of the following measures and/or such other measures as may be considered appropriate by them in the attendant circumstances;

- (a) the change of management or control/ownership of the Developer;
- (b) the replacement of the Developer by a new developer (the “**Substitute Entity**”) on terms no less favourable than those contained in this Agreement and the specific terms and conditions of such replacement which shall include:
 - (i) the criteria for selection of the Substitute Entity,
 - (ii) the transfer of rights and obligations of the Developer surviving under this Agreement to the Substitute Entity,
 - (iii) handing over/ transfer of the Project Assets and the Project to the Substitute Entity,
 - (iv) assumption by the Substitute Entity of the outstanding obligations of the Developer under the Financing Documents and preserving Lenders’ charge on the Developer’s assets ,
 - (v) assumption by Substitute Entity of any amounts due to DMA from the Developer under this Agreement,
 - (vi) the provision of Performance Security by the Substitute Entity.

13.5 OBLIGATIONS DURING REMEDIAL PERIOD

During the Remedial Period, the Parties shall continue to perform their respective obligations under this Agreement which can be performed, failing which the Party in breach shall compensate the other Party for any loss or damage occasioned or suffered on account of the underlying failure/breach.

13.6 REVOCATION OF CONSULTATION NOTICE

If during the Remedial Period the underlying Event of Default is cured or waived or the Parties and the Lenders agree upon any of the measures set out in Article 13.4, the Consultation Notice shall be withdrawn by the Party who has issued the same.

13.7 TERMINATION DUE TO EVENTS OF DEFAULT

If before the expiry of the Remedial Period, the underlying Event of Default is neither cured nor waived nor the Parties and the Lenders have agreed upon any of the measures in accordance with Article 13.4, the Party who has issued the Consultation Notice shall have the right to terminate this Agreement, in which event, the provisions of Article 14 shall, to the extent expressly made applicable, apply.

ARTICLE 14: TERMINATION/EXPIRY OF AGREEMENT

14.1 TERMINATION PROCEDURE

The Party entitled to terminate this Agreement either on account of a Force Majeure Event or on account of an Event of Default shall do so by issue of a notice in writing (“**Termination Notice**”) to the other Party and simultaneously deliver a copy thereof to the Lenders. The Termination Notice shall be of not less than 60 (sixty) days and not ordinarily be more than 90 (ninety) days, (“**Termination Period**”) and at the expiry of the Termination Period, this Agreement shall stand terminated.

14.2 OBLIGATIONS DURING TERMINATION PERIOD

During Termination Period, the Parties shall, subject where applicable to the provisions of Article 13, continue to perform such of their respective obligations under this Agreement which are capable of being performed.

14.3 REQUISITION

Upon issue or receipt, as the case may be, of the Termination Notice, either as a consequence of a Force Majeure Event or as a consequence of an Event of Default, DMA shall by a notice in writing (“**Requisition**”) call upon the Developer to furnish the following information to enable DMA to estimate the outstanding liabilities/assets of the Developer and/or to finalise the assets to be handed over to/taken over by DMA;

- (a) the progress, stage and manner of implementation of the Project and the details of the assets and liabilities of the Developer;
- (b) data or records (to be specified by DMA) regarding the establishment, of the Project;
- (c) any other information or records (to be specified by DMA) regarding Developer and the Persons claiming through or under the Developer, its/their business, assets and liabilities.
- (d) the particulars of Licensing Arrangements and the details of functioning of the Subcontractors
- (e) the particulars of the security interests supported by Lenders’ certificate;

The Developer shall within a period of 30 (thirty) days of receipt of Requisition furnish the particulars called for by DMA.

14.4 CONDITION SURVEY

- (a) The Developer agrees that on the service of a Termination Notice or 6 (six) months prior to the expiry of the Concession Period by efflux of time, it shall conduct or cause to be conducted by an Expert under DMA’s supervision, a condition survey of the Project and the Project Assets to ascertain the condition thereof, verifying compliance with the Developer’s obligations under this Agreement and to prepare an inventory of the assets comprised in the Project
- (b) If, as a result of the condition survey, DMA shall observe/notice that the Projector the Project Assets or any part thereof has/have not been operated and maintained in accordance with the requirements therefore under this Agreement (normal wear and tear excepted) the Developer shall, at its cost and expenses, take all necessary steps to put the same in good working conditions well before the Transfer Date.
- (c) In the event the Developer fails to comply with the provisions of this Agreement, DMA may itself cause the condition survey and inventory of Project Assets and the Project to be conducted. DMA shall be compensated by the Developer for any costs incurred in conducting such survey and preparation of inventory as also in putting the Projector the Project Assets in good working condition.

14.5 CONSEQUENCES OF TERMINATION

Without prejudice to any other consequences or requirements under this Agreement or under any law, the following consequences shall follow upon expiry of the Concession Period/this Agreement by efflux of time or termination due to an Event of Default or a Force Majeure Event:

14.5.1 In Relation to Project

(a) Transfer of Assets

- (i) On the Transfer Date, the Developer shall subject to the provisions of this Agreement :
 1. transfer, assign and deliver to DMA or its nominated agency the Project and the Project Assets, including vacant possession of all buildings, facilities and structures relating thereto and its right, title and interest therein.
 2. transfer all its rights, titles and interest in or over the tangible assets comprised in the Project (including movable assets which DMA agrees to take over) to DMA or its nominated agency and execute such deeds and documents as may be necessary for the purpose and complete all legal or other formalities required in this regard.
 3. hand over to DMA or its nominated agency all documents including as built drawings, manuals, designs, documents, information and records relating to the Project and the Project Assets.
 4. to the extent possible assign to DMA or its nominated agency at the time of transfer all unexpired guarantees and warranties by Subcontractors and suppliers and all insurance policies.
 5. at its cost remove from the Site all such moveable assets which are not taken over by or transferred/assigned to DMA or its nominated agency. In the event the Developer fails to remove such objects within the stipulated time, DMA or its nominated agency may remove and transport or cause removal and transportation of such objects, after giving the Developer notice of its intention to do so to a suitable location for safe storage. The Developer shall be liable to bear the reasonable cost and the risk of such removal, transportation and storage.
 6. All proceeds of insurance claims shall be handed over to DMA or its nominated agency and the Developer or Persons claiming through or under it shall have no claim thereon or rights thereto.
- (ii) The transfer of immovable property comprising the Project and the Project Assets shall be deemed to be a termination of all arrangements or licenses in relation thereto and title to all such immovable property shall automatically revert to DMA or its nominated agency. The movable property comprising the Project and the Project Assets shall be deemed to be transferred by delivery and possession.
- (iii) DMA and the Developer shall at least 6 (six) months prior to the expiry of the Concession Period or upon commencement of Termination Period, as the case may be, promptly agree upon the modalities and take all necessary steps to complete the aforesaid process of transfer of assets on the Transfer Date. During this period, the designated key personnel of DMA shall be associated with the operations of the Project in order to facilitate smooth takeover of the same by DMA on the Transfer Date.
- (iv) It is clarified that only the assets of the Developer shall be taken over and not the liabilities, including without limitation liabilities relating to labour and personnel related obligations of the Developer and the Persons claiming through or under the Developer. All such labour and employees shall be its responsibility of the

Developer/such Persons even after the expiry of the Concession Period and they shall have no claim to any type of employment or compensation from DMA or its nominated agency.

- (v) On the Transfer Date the Project and the Project Assets shall be in fair condition, subject to normal wear and tear, having regard for the nature of the asset, the construction and life of the facilities, constructions, structures etc.
- (vi) The Licensing Arrangements and the agreements with Subcontractors shall be terminated and the Developer, Licensees, the Subcontractors, and all Persons claiming through or under them shall, forthwith vacate the Site/Project without demur or delay.
- (vii) If on the Transfer Date, any Person is found to be occupying the Site, the Projector Project Assets or any part thereof, it shall be lawful for DMA to secure summary eviction of such Person in accordance with the Applicable Laws.

(b) Project Agreements

The Developer shall at the cost of DMA or its nominated agency transfer/assign such of the Project Agreements which (i) are valid and subsisting, capable of being transferred/assigned, (iii) DMA or its nominated agency has chosen to take over in its favour. The Developer shall entirely at its cost, terminate all such Project Agreements which are not transferred/assigned to DMA or its nominated agency.

(c) Clearances

The Developer shall, at its cost, transfer to DMA or its nominated agency all such Clearances relating to the Project which DMA may require and which can be legally transferred.

(d) Transfer Costs

- (i) The Project and the Project Assets shall be transferred to DMA or its nominated agency, as the case may be, for a sum of Rupee 1.00.
- (ii) DMA or its nominated agency shall be responsible for the costs and expenses, including stamp duties, taxes, legal fees and expenses incurred in connection with the transfer of the Project and the Project Assets by the Developer to DMA or its nominated agency.

(e) Guarantees

- (i) DMA shall be entitled to call in, forfeit, encash and appropriate any subsisting Performance Security/bank guarantee(s) provided by the Developer, if the termination is on account of a Developer Event of Default.
- (ii) Upon termination of this Agreement due to any Force Majeure Event (non-political or political event) or a DMA Event of Default, DMA shall return the Performance Security to the Developer; provided there are no outstanding claims of DMA on the Developer. Upon termination of this Agreement due to a Developer Event of Default, DMA shall forfeit and retain the Performance Security.

(f) Termination Payments

In the event of termination of this Agreement/Concession due to Force Majeure Event or an Event of Default, DMA shall, upon transfer of the Project and the Project Assets by the Developer to DMA or its nominated agency, pay to the Developer the following Termination Payments:

- (i) Upon termination by DMA due to a Developer Event of Default during the Construction Period for Project, DMA shall pay to the Developer by way of Termination Payment an amount equal to 90% (ninety percent) of the Debt Due for Project.

- (ii) Upon termination by either party due to a Non Political Force Majeure Event, DMA shall pay to the Developer by way of Termination Payment an amount equal to 90% (ninety percent) of the Debt Due for Project.
- (iv) Upon termination by the Developer due to a DMA Event of Default or upon termination by either party due to a Political Force Majeure Event, DMA shall pay to the Developer by way of Termination Payment an amount equal to Total Debt Due plus 100% (one hundred percent) of Equity component of the Total Project Cost subscribed and paid in cash till date of termination, if such termination occurs during the Construction Period for Project but prior to the Construction Completion being achieved;
- (v) In either case under sub-clause (i), (ii) or (iii) above, less (1) the amount of any insurance proceeds received by the Developer or which should have been received had the Developer complied with its obligations under this Agreement and (2) any amounts then due and payable to DMA by the Developer under this Agreement and (3) any amounts which the Developer is entitled to claim in compensation in respect of the expropriation or compulsory acquisition of the assets or rights of the Developer etc. from the party responsible for such expropriation or acquisition. If the amount calculated in accordance with this paragraph is less than zero then the Developer shall pay the amount of shortfall to DMA.
- (vi) Nothing in this clause shall prejudice the right of DMA to recover from the Developer any amounts due and payable to it by the Developer hereunder.
- (vii) The Developer hereby irrevocably authorises DMA to pay to the Lenders or at their instruction to any designated bank account in India the compensation payable to the Developer. The Developer confirms that upon such payment being made, DMA shall stand duly discharged of its obligations regarding payment of compensation under this Agreement Provided, if there are no amounts outstanding under the Financing Documents and a certificate to that effect issued by the Lenders is furnished by the Developer to DMA, the compensation shall, subject to the provisions of Article 14.5 below, be paid by DMA directly to the Developer.
- (viii) Notwithstanding anything to the contrary contained in this Agreement, any Termination pursuant to the provisions of this Agreement shall be without prejudice to accrued rights of a Party, including its right to claim and recover money damages and other rights and remedies which it may have in law or contract. All rights and obligations of a Party under this Agreement shall survive the Termination of this Agreement to the extent such survival is necessary for giving effect to such rights and obligations.

14.6 DIVESTMENT OF RIGHTS AND INTEREST

The divestment of all rights, title and interest in the Project Facilities shall be deemed to be complete on the date when all of the requirements have been fulfilled as mentioned in Article 14, and DMA shall, without unreasonable delay, thereupon issue a certificate (the “**Vesting Certificate**”), which will have the effect of constituting evidence of divestment by the Developer of all of its rights, title and interest in the Project Facilities, and their vesting in DMA pursuant hereto. It is expressly agreed that any defect or deficiency in the Divestment Requirements shall not in any manner be construed or interpreted as restricting the exercise of any rights by DMA or its nominee on, or in respect of, the Project Facilities on the footing that all divestment requirements have been complied with by the Developer.

ARTICLE 15: LIABILITY AND INDEMNIFICATION

15.1 LIABILITY OF DEVELOPER

Notwithstanding anything to the contrary contained in this Agreement,

- (a) In addition to the Developer's liability and obligations and DMA's remedies provided elsewhere in this Agreement, the Developer shall be solely responsible for any loss of or damage to the Project Facilities, damage to environment, death or injury to person, and any other liabilities, damages, losses and reasonable cost and expenses (including legal costs) suffered by DMA during the Concession Period:
 - (i) resulting from any act, omission or negligence of the Developer or any other Person claiming through or under it, including Subcontractors, and their respective employees, agents, subcontractors and representatives.
 - (ii) in connection with, arising out of, or resulting from any breach of warranty, material misrepresentation by the Developer or any other Person claiming through or under it, or non-performance of any term, condition, covenant or obligation to be performed by the Developer under this Agreement.
- (b) The Developer shall also be liable for any loss or damage which occurs as a result of any act, event, omission, negligence or default (including property circumstances, quality of materials used, workmanship, structural, design or other defects, latent or patent, non-compliance with building bye laws, other Applicable Laws, regulatory requirements of Competent Authorities, Developmental Standards or any other matter) for which the Developer is liable or which is attributable to the Developer and, in turn, the Persons claiming through or under the Developer.
- (c) The Developer shall be fully and solely liable for all works, contracts, dealings and activities in relation to the development, design, financing, construction, maintenance and implementation of the Project.

15.2 INDEMNIFICATION

- (a) Without prejudice to and in addition to the indemnification provisions elsewhere in this Agreement, the Developer agrees to indemnify and hold harmless DMA and its shareholders, managers, officers, directors, employees and advisors (each a **"DMA Indemnified Party"**) promptly upon demand at any time and from time to time, from and against any and all losses, claims, damages, liabilities, costs, penalties, litigation, proceedings (including reasonable attorneys' fees and disbursements) and expenses of any nature whatsoever (collectively, **"Losses"**) to which DMA Indemnified Party may become subject, insofar as such Losses directly arise out of, in any way relate to, or result from (i) any mis-statement or any breach of any representation or warranty made by Developer or (ii) the failure by Developer to fulfil any agreement, covenant or condition contained in this Agreement, including without limitation the breach of any terms and conditions of this Agreement by any employee or agent of the Developer or Person claiming through or under the Developer or (iii) any claim or proceeding by any Third Party against DMA arising out of any act, deed or omission by the Developer. For the avoidance of doubt, indemnification of Losses pursuant to this Article 15 shall be made in an amount or amounts sufficient to restore each DMA Indemnified Party to the financial position it would have been in had the Losses not occurred.
- (b) Without limiting the generality of sub-clause (a) of this Article 15.
 - (i) the Developer shall fully indemnify and defend DMA Indemnified Party from and against any and all Losses arising out of or with respect to (1) failure of the Developer and the

Persons claiming through or under the Developer to comply with Applicable Laws and Clearances, (2) payments of Taxes relating to the Developer and the Persons claiming through or under the Developer, including contractors, suppliers and representatives, including the income or other taxes required to be paid by the Developer/such Persons, (3) non-payment of amounts due as a result of materials or services furnished to the Developer or any Person claiming through or under the Developer, which are payable by the Developer or such Person, or (4) breach by the Developer of any of the obligations under this Agreement.

- (ii) the Developer shall fully indemnify and defend DMA Indemnified Party harmless from and against any and all Losses which DMA Indemnified Party may hereafter suffer or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Developer or by the Persons claiming through or under the Developer in performing the Developer's obligations or in any way incorporated in or related to the Project. If in any such suit, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Developer shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of the injunction or restraint order. If, in any such suit claim or proceedings, the Project, or any part, thereof or comprised therein is held to constitute an infringement and its use is permanently enjoined, the Developer shall promptly make every reasonable effort to secure for DMA Indemnified Party, a license, at no cost to DMA Indemnified Party, authorising continued use of the infringing work. If the Developer is unable to secure such license within a reasonable time, the Developer shall, at its own expense and without impairing the Developmental Standards either replace the affected work, or part, or process thereof with non-infringing work or parts or process, or modify the same so that it becomes non-infringing.
- (iii) the Developer shall further indemnify, defend and hold harmless DMA Indemnified Party from any and all Third Party claims for loss of or physical damage to property or for death or injury and against all Losses for personal injury and for damage to or loss of any property arising out of or in any way connected with the Developer's performance of this Agreement or arising out of any act or omission of the Developer, and in turn of the Persons claiming through or under the Developer.

- (c) Any payment made under this Agreement pursuant to an indemnity or claim for breach of any provision of this Agreement shall be net of applicable Taxes.

15.3 INDIRECT OR CONSEQUENTIAL LOSSES

Notwithstanding anything to the contrary contained in this Article 15, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect or consequential nature except as expressly provided in this Agreement.

15.4 SURVIVAL

The provisions of Article 15 shall survive the expiry or prior termination of this Agreement/the Concession.

ARTICLE 16: DISPUTE RESOLUTION

16.1 AMICABLE SETTLEMENT

If any dispute or difference or claims of any kind arises between the Parties in connection with construction, interpretation or application of any terms and conditions or any matter or thing in any way connected with or in connection with or arising out of this Agreement, or the rights, duties or liabilities of any Party under this Agreement and so notified in writing by either Party to the other Party (the “Dispute”), whether before or after the termination of this Agreement, then the Parties shall meet together promptly, at the request of any Party, in an effort to resolve such dispute, difference or claim by discussion between them.

16.2 ASSISTANCE OF EXPERT

The Parties may, in appropriate cases agree to refer the matter to an Expert appointed by them with mutual consent. The Parties agree to abide by the decision/opinion of the Expert. The cost of obtaining the service of the Expert shall be shared equally.

16.3 ARBITRATION

(a) Arbitrators

In the event the dispute or difference or claim, as the case may be, is not resolved, as evidenced by the signing of the written terms of settlement by the Parties, within 30 (thirty) days of reference for amicable settlement and/or settlement with the assistance of Expert, as the case may be, the same shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996. The arbitration shall be by a panel of three arbitrators, one each to be appointed by DMA and the Developer and the third to be appointed by the two arbitrators so appointed, who shall act as chairperson of the arbitral tribunal.

(b) Place of Arbitration

The place of arbitration shall be Ranchi but by agreement of the Parties, the arbitration hearings, if required, can be held elsewhere from time to time.

(c) English Language

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and rulings shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings.

(d) Enforcement of Award

Any decision or award resulting from arbitration shall be final and binding upon the Parties. The Parties hereto hereby waive, to the extent permitted by law, any rights to appeal or to review of such award by any court or tribunal. The Parties hereto agree that the arbitral award may be enforced against the Parties to the arbitration proceeding or their assets wherever they may be found and that a judgement upon the arbitral award may be entered in any court having jurisdiction thereof.

(e) Fees and Expenses

The fees and expenses of the arbitrators and all other expenses of the arbitration shall be initially borne and paid by respective Parties subject to determination by the arbitrators. The arbitrators may provide in the arbitral award for the reimbursement to the prevailing Party of its costs and expenses in bringing or defending the arbitration claim, including legal fees and expenses incurred by such Party.

(f) Performance during Arbitration

Pending the submission of and/or decision on a dispute, difference or claim or until the arbitral award is published; the Parties shall continue to perform all of their obligations under this Agreement without prejudice to a final adjustment in accordance with such award.

ARTICLE 17: INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

17.1 INTELLECTUAL PROPERTY RIGHTS

- (a) The Developer accepts and agrees that DMA shall be the absolute and exclusive owner and proprietor of the all details, plans, specifications, schedules, programs, budget, reports, calculations and other work relating to the Project hereafter referred to as "**Proprietary Material**", which have been or are hereafter written, originated or made by any of the Developer or the Persons claiming through or under it or any of their respective employees, contractors, consultants or agents in connection with this Agreement or the design, construction, insurance and financing of the Project. All Proprietary Material shall be clearly marked as such in capital letters and in bold face print.
- (b) DMA shall own all the intellectual property rights in or relating to the Proprietary Material and all rights, privileges, entitlements, interests, title, property and benefits and associated rights whatsoever therein for the full period in accordance with the Applicable Laws and with all the reservations and extensions thereof and together with the exclusive right of DMA to use such information and intellectual property/authorize the use thereof by Third Parties in India and abroad in any form, including without limitation the right to reproduce, translate, edit, modify, distribute, sell or assign such rights, with or without consideration.
- (c) DMA shall have the exclusive right to apply for/procure registration such intellectual property rights at its cost with relevant competent authorities in India and abroad.
- (d) The Developer and DMA hereby grant to each other an irrevocable, royalty-free, non-exclusive license to use all proprietary material owned by any of them or any of their respective employees, contractors, consultants or agents in connection with this Agreement or the design, construction, insurance and financing of the Project. Such license shall carry the right to use such material for all purposes connected with the Project; however, it shall not be transferable to any Person other than to the permitted assignee under this Agreement. Such license shall discontinue on the termination or expiry of this Agreement or the discharge by any Party of its duties hereunder.

17.2 CONFIDENTIALITY

No Party shall, without the prior written consent of the other Party, at any time divulge or disclose or suffer or permit its servants or agents to divulge or disclose to any Person or use for any purpose unconnected with the Project any information which is by its nature or is marked as Proprietary Material or "confidential", concerning the other (including any information concerning the contents of this Agreement) except to its officers, directors, employers, agents, representatives and professional advisors or as may be required by any law, rule, regulation or any judicial process; provided, however, that a Party, with the written consent of the other Party, may issue press releases containing non-sensitive information in relation to the progress of the Project. This provision shall not apply to information:

- (a) already in the public domain, otherwise than by breach of this Agreement;
- (b) already in the possession of the receiving Party on a lawful basis before it was received from the other Party in connection with this Agreement and which was not obtained under any obligation of confidentiality;
- (c) obtained from a Third Party who is free to divulge the same and which was not obtained under any obligation of confidentiality;

- (d) disclosed to the Lenders under terms of confidentiality; or
- (e) which is required to be disclosed by judicial, administrative or stock exchange process, any enquiry, investigation, action, suit, proceeding or claim or otherwise by or under any Applicable Law or by any Competent Authority.

17.3 SURVIVAL

The provisions of Article 17 shall survive the expiry or prior termination of this Agreement/Concession.

ARTICLE 18: SAFETY REQUIREMENTS

18.1 SAFETY REQUIREMENTS

- (a) The Developer shall be responsible at its cost, for procurement, transport, receiving, unloading and safe keeping of all plant and machinery, materials, Developer's equipment and other things required for the completion of the Works, services and operation and maintenance of the Project Facilities. Unless otherwise stated in this Development Agreement:
 - i) The Developer shall be responsible for keeping unauthorised persons off the Project Site and preventing encroachment on the Project Site during the Construction Period.
 - ii) Authorised persons during the Construction Period for Project shall be limited to the employees of the Developer, employees of its Subcontractors, and employees and persons authorised by DMA.
- (b) Within 3 (three) months from the Agreement Date, the Developer shall provide to DMA details of its safety plans and procedures for the Works, buildings, services and construction. The Developer shall comply with all safety regulations applicable, in its design, access arrangements and operations on Project Site. Unless otherwise stated in this Development Agreement, the Developer shall, from the commencement of work on the Project Site until the expiration of this Development Agreement or upon termination of this Agreement, provide fencing, lighting, guarding and watching of the Works and Project & Developer Component. The Developer shall be responsible in the operation of machinery and equipment, use of explosives and any other work and to take all precautions to ensure safety of the staff, labourers and public.

18.2 ACCIDENTS

- (a) The Developer shall take all reasonable precautions for the prevention of accidents on or about the Project Site and provide all reasonable assistance and emergency medical aid to accident victims.
- (b) In the event of an accident, the Developer shall, by most expeditious means, inform the concerned Civil and Police Authorities and also DMA. The Developer's responsibilities with regard to the operation of the Project shall in no way be diminished by informing the above officials, as it shall be required to take expeditious action for the medical and legal aspects notwithstanding any delay on the part of these officials to give any instructions. The Developer shall preserve the Project Site of such accident intact, until completion of all legal formalities. The Developer shall then arrange for the expeditious removal of the wreckage or debris, and for cleaning the Project Site. If any portion of the Project & Developer Component suffers any damage, the Developer shall, with the consent of DMA, arrange for the repair and rectification thereof.
- (c) The Developer shall, in the event of any accident, incur any expenditure or take any other action as necessary (in accordance with Good Industry Practices). Except when the cause of the accident is attributed to any act or negligence of DMA, any expenditure in connection with an accident shall be compensated to the Developer in accordance with Article 9.8.
- (d) Any communication to the news media made by the Developer shall provide only enough information to satisfy public concern and the Developer shall neither make any admissions nor accept any liability in any such communications.

ARTICLE 19: MISCELLANEOUS PROVISIONS

19.1 GOVERNING LAW AND JURISDICTION

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India and the courts at Ranchi shall have jurisdiction over all matters arising out of or relating to this Agreement.

19.2 WAIVER & REMEDIES

- (a) The waiver by either Party, including conditional or partial waiver, of any default by the other Party in the observance and performance of any provision of or obligations or under this Agreement:
 - (i) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement;
 - (ii) shall not be effective unless it is in writing and executed by a duly authorized representative of such Party; and
 - (iii) shall not affect the validity or enforceability of this Agreement in any manner.
- (b) No failure on the part of any Party to exercise, and no delay in exercising, any right, power, obligation or privilege hereunder or time or indulgence granted by a Party to the other Party shall operate or be treated or deemed as a waiver thereof or a consent thereto or the acceptance of any variation or relinquishment of any such right hereunder; nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The remedies herein provided are cumulative and not exclusive of any remedies provided by the Applicable Laws.
- (c) Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation there under nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

19.3 SURVIVAL

The termination /expiry of this Agreement

- (a) shall not relieve either Party of any obligations hereunder, which expressly or by implication, survive the expiry or prior termination of this Agreement/the Concession, and
- (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such termination/expiry or arising out of such termination/expiry.

19.4 ENTIRE AGREEMENTS AND AMENDMENTS

- (a) This Agreement constitutes the complete, exclusive and entire statement of the terms of the agreement between the Parties on the subject hereof and supersede all previous agreements or arrangements between the Parties, including any memoranda of understanding entered into in respect of the contents hereof.
- (b) No amendment or modification or waiver of any provision of this Agreement, nor consent to any departure by any of the Parties there from, shall in any event be valid and effective unless the same is in writing and signed by the Parties or their duly authorised representative

especially empowered in this behalf and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn.

19.5 NOTICES

Unless otherwise stated, notices to be given under this Agreement including but not limited to a notice of waiver of any term, breach of any term of this Agreement and termination of this Agreement, shall be in writing and shall be given by hand delivery, recognised courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

If to DMA

If to Developer

Fax No. _____

Attn: Mr. _____

Or such address, telex number, or facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered (i) in the case of any communication made by letter, when delivered by hand, by recognized courier or by mail (registered, return receipt requested) at that address and (ii) in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

In case any Party changes its address, communication numbers, or directed attention as set forth above, it shall notify the other Party in writing prior to the adoption thereof.

19.6 SEVERABILITY

- (a) If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not prejudice or affect the remaining provisions of this Agreement which shall continue in full force and effect.
- (b) The Parties will negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted, as nearly as is practicable, to such invalid, illegal and unenforceable provision. Provided failure to agree upon any such provisions shall not be subject to the Dispute Resolution Procedure under this Agreement.

19.7 NO PARTNERSHIP

Nothing contained in this Agreement shall be construed to create an association, trust, partnership, agency or joint venture among the Parties and Parties shall be liable to perform their respective duties and discharge their respective liabilities or obligations in accordance with the provisions of this Agreement. Neither Party shall have any authority to enter into any Agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind the other in any manner whatsoever.

19.8 LANGUAGE

The language of this Agreement is English. All notices, correspondence, Project Agreements, documentation, DPR, data, test reports, certificates and information in respect of this Agreement shall be in the English language. All other written and printed matter, communications, documentation, proceedings and notices etc. pursuant or relevant to this Agreement shall be in the English language.

19.9 EXCLUSION OF IMPLIED WARRANTIES ETC.

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by any Party not contained in a binding legal agreement executed by the Parties.

19.10 COUNTERPARTS

This Agreement may be executed in three counterparts, each in the like form, which when taken together shall constitute one and the same document.

19.11 FURTHER ASSURANCES

At all times after the date hereof the Parties shall execute all such documents and do such acts, deeds and things as may reasonably be required for the purpose of giving full effect to this Agreement.

19.12 REMEDIES CUMULATIVE

The exercise of right by either Party to terminate this Agreement, as provided herein, shall not preclude, such Party from availing any other rights or remedies that may be available to it under law. All remedies available to the Parties shall be cumulative and the exercise or failure to exercise one or more remedies by any Party shall not limit or preclude the exercise of or constitute a waiver of any other remedies by such Party.

19.13 NO LIABILITY FOR REVIEW

Except to the extent expressly provided in this Agreement.

- (a) no review, comment or approval by DMA /Competent Authorities/ Independent Engineer/advisors, nominees or representatives of DMA of the Designs and Drawing, the Environment Management Plan, the Developmental Standards, the Developer Component Scheme, the Transaction Documents or documents submitted by the Developer or its employees or agents or Persons claiming through or under the Developer nor any observation or inspection of the construction, operation or maintenance of the Project nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Developer from its obligations, duties and liabilities under this Agreement, the Applicable Laws and Clearances; and
- (b) DMA or any Competent Authority or the advisors, nominees or representatives of DMA shall not be liable to the Developer by reason of any review, comment, approval observation or inspection referred in sub-clause (a) above and the Developer shall indemnify them and keep

them indemnified in this behalf.

19.14 TIME

Any date or period as set out in this Agreement may be extended with the written consent of the Parties, failing which time shall be of the essence.

19.15 CHANGE IN LAW

In the event of a Change in Law results in a Material Adverse Effect, DMA or the Developer may by notice in writing to the other party request such modifications to the terms of this Agreement as the requesting party reasonably believes is necessary to place it in substantially the same legal, commercial and economic position as it was prior to such Change in Law. The Developer and DMA shall thereafter consult in good faith to agree to such modifications and in the event agreement cannot be reached, either of them may refer the matter for determination in accordance with the Dispute Resolution Procedure.

19.16 DEPRECIATION

For the purposes of claiming tax depreciation, the property representing the capital investment made by the Developer/Persons claiming through or under the Developer shall be deemed to be acquired and owned by the Developer/Persons claiming through or under the Developer.

19.17 VIOLATION OF TERMS

The Parties agree that in the event of any breach of the provisions of this Agreement, the Parties shall suffer irreparable harm and injury and damages would not be an adequate remedy and each of the Parties (at its sole discretion) shall be entitled to an injunction, restraining order, right for recovery, suit for specific performance or such other equitable relief as a court or arbitral forum of competent jurisdiction may deem necessary or appropriate to restrain the other Party from committing any violation or enforce the performance of the covenants, representations and obligations contained in this Agreement. These injunctive remedies are cumulative and are in addition to any other rights and remedies the Parties may have at law or in equity, including without limitation a right for damages.

19.18 INTEREST AND RIGHT OF SET OFF

The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 15 (fifteen) days of receiving a demand along with the necessary particulars.

Any sum which is due and payable under any of the provisions of this Agreement by one party to the other shall, if the same is not paid within the time allowed for payment thereof, be deemed to be a debt owed by the Party responsible for such payment to the Party entitled to receive the same. Such sum shall until payment thereof carry interest at the rate specified herein, and if not specified at the rate of 18 % per annum, from the due date and until the date of payment or otherwise realisation thereof by the Party entitled to receive the same. Without prejudice to any other right or remedy available under this Agreement or under law, the Party entitled to receive such amount shall also have the right of set off.

Provided this provision for payment of interest for delayed payment shall not be deemed or construed to (i) authorise any delay in payment of any amount due by a party or (ii) be a waiver of the underlying breach of the payment obligations.

19.19 WAIVER OF IMMUNITY

Each Party unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- (b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;
- (c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction;

19.20 THIRD PARTIES

This Agreement is intended solely for the benefit of the Parties, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement, unless expressly provided in this Agreement.

19.21 SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon, and inure to the benefit of the Parties and their lawful successors, as per the provisions of this Agreement.

19.22 VALIDITY

This Agreement shall be valid for the entire Concession Period.

IN WITNESS WHEREOF the Parties have executed and delivered this Agreement by their duly authorised representative on the date first above written:

SIGNED ON BEHALF OF DMA	SIGNED, SEALED AND DELIVERED
_____(Signature)	Developer by the hand of its
_____(Name)	authorized representative
_____(Designation)	_____(Signature)
	_____(Name)
	_____(Designation)
	pursuant to Resolution dated..... of its
	board of directors.

Witnesses:

(i)

(ii)

Date:

Place:

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SCHEDULE 1: PROJECT SITE

List of sites to be inserted along with area and indicative number of dwelling units to be constructed.

Note:

DMA may also award additional sites apart from the Site mentioned below for development/ redevelopment to the Developer subject to maximum 25% of the Estimated Project Cost in the RFQP.

SCHEDULE 2: SCOPE OF WORK FOR THE PROJECT

1. The objective of the Agreement is the construction of dwelling units on the Project Site/s as per the Approved DPR complete with all the internal plumbing, electrical works, water and sewerage system, drainage system and associated facilities but excluding the External Infrastructure.
2. The number of dwelling units to be developed under this Project are approximately ~40,000 on various land parcels as handed over by DMA. The land parcels shall be handed over in different phases over a period of 3 years in various districts of Jharkhand.
3. Estimated number of floors is G+4 subject to local building bye laws.
4. The Developer shall submit inter alia the following documents, along with an implementation plan, specifications proposed to be followed for the Works:
 - (i) A general Architectural note on methodology of construction technology, design, structural design considerations, aesthetical elements, final finishes, safety & security, mechanical, electrical, plumbing and sanitary features and overall serviceability of building under the contemplation of design.
 - (ii) Architectural plan of each floor including terrace.
 - (iii) Working drawings of each floor.
 - (iv) Terrace floor plan showing the locations and sizes of tanks, rain water outlets and any other utility if there.
 - (v) X-Section comprising the complete detail of heights of various building components including rooms, stair cases, sunken slabs, toilets, kitchens, doors & windows.
 - (vi) Drawing of flooring patterns.
 - (vii) Door, window schedules.
 - (viii) Drawings of door window grills and stair case railings.
 - (ix) Schedules of finishes.
 - (x) Schematic diagram route plan of water supply pipe lines for toilets & kitchens.
 - (xi) Detailed drawing of Tanks including roof top water storage tanks, underground tanks, fire fighting tanks etc.
 - (xii) External elevations.
 - (xiii) Internal sanitary & Plumbing Plans with elevation of each wall with complete detail.
 - (xiv) Schematic diagram of external drainage of rain water and sanitary pipes and their route plan.
 - (xv) Electrical lay out plan.
 - (xvi) Electrical panel & DBs & SDBs drawings.
 - (xvii) Schematic line diagram of electrical circuit wiring and conducting.
 - (xviii) Structural drawings of all building components.
 - (xix) Structural design calculation.
 - (xx) Electrical design calculation.
5. The scope of works shall also include but not limited to the following incidental activities:
 - a) All aspects of quality assurance, including testing of materials and other components of the work, as specified or as directed;
 - b) Works shall be executed in good engineering manner keeping especially focusing on safety and structural stability of structures under all weather conditions.
 - c) True and proper setting out and layout of the Works, bench marks and provision of all necessary labour, instruments and appliances in connection therewith as specified or as directed;

- d) Rectification of the defects in the completed works during the Defects Liability Period of 2 years from the date of issue of Completion Certificate;
 - e) The scope of work includes working under all conditions at site, moisture, water, weather etc., diversion/pumping/bailing out of water, if required.
 - f) Identification of utilities & liaison with other government departments regarding shifting of utilities & other matters, whenever required.
 - g) Provision of site laboratory for testing of materials
 - h) All ancillary and incidental facilities required for execution of the work e.g. labour camps, stores, laboratory at site, work shop facilities, watch and ward, temporary structure for plants and machinery, water storage structure, tube wells, electric/ telephone installation and charges, liaison work, protection work during execution not included in the main items. Works to be performed shall also include all general works preparatory to the construction and works of any kind necessary for the due and satisfactory construction, completion and maintenance of the works to the intent and meaning of the drawings adopted and technical specifications, to best standards and orders that may be issued by the Engineer from time to time, supply of all materials, apparatus, plants, equipment, tools, fuel, water, strutting, timbering, transport, offices, stores, workshop, staff, labour and the provision of proper and sufficient protective works, diversion, temporary fencing, lighting and watching required for the safety of the public and protection of works on adjoining land; first-aid equipment, sanitary accommodation for the staff and workmen, effecting and maintenance of all insurances, the payment of all wages, salaries, fees, royalties, duties or the other charges arising out of the erection of works and the regular clearance of rubbish, clearing up, leaving the site perfect and tidy on completion.
6. The Developer shall prepare proposed construction methodology and phasing in co-ordination with DMA. He shall comply strictly with the approved DPR during construction of works.

SCHEDULE 3: INDICATIVE TECHNICAL SPECIFICATIONS & STANDARDS

1. General Requirements

The technical specifications, in accordance with which the construction works of the Project as per the plan to be executed by the Developer, shall comprise of the following:

- (a) General Technical Specifications
- (b) Supplementary Technical Specifications

2. The following technologies can be used for the construction of the Project

- j. Monolithic Concrete Construction System using Plastic - Aluminum Formwork
- k. Monolithic Concrete Construction System using Aluminum Formwork
- l. Expanded Polystyrene Core Panel System
- m. Industrialized 3-S System using Precast RCC Columns, Beams & Cellular Light Weight
- n. Concrete Precast RCC Slabs
- o. Speed Floor System
- p. Glass Fiber Reinforced Gypsum (GFRG) Panel Building System
- q. Factory Made Fast Track Modular Building System
- r. Light Gauge Steel Framed Structures (LGSF)

Apart from the above, a construction technology certified/ approved by any of the following institutes can also be used:

- vi. Building Material and Technology Promotion Council (BMTPC) under its Performance Appraisal Certification Scheme
- vii. Central Building Research Institute (CBRI), Roorkee
- viii. CSIR-Structural Engineering Research Centre (SERC), Chennai
- ix. Any Indian Institute of Technology / National Institute of Technology
- x. Any other national/ international institute of repute duly recognized by the concerned National Government/ competent authority

Provided that all the walls/roof in the dwelling units shall be with outer concrete finish.

3. General Technical Specifications

All the items of work shall be executed as per Jharkhand PWD B&R Specifications. National Building Code shall also be followed. Any item or part of the item not covered in such specifications shall be executed as per relevant IS Codes or Central Public Works Department (CPWD) Specifications or as per the directions of DMA. Fly ash as per directives of the Central / State Government to be used wherever applicable.

These codes and specifications shall deem to be bound in this document. The technical specifications for civil, mechanical and electrical installations works are detailed in the subsequent sections.

In case of proprietary technology, the specifications and standards as approved by DMA shall be applicable.

4. Supplementary Technical Specifications

This part shall comprise various amendments/modifications/additions to the relevant codes and

standards.

When an Amended/Modified/Added clause supersedes a clause or part thereof in the said specifications, then any reference to the superseded clause shall be deemed to refer to the Amended/Modified clause or part thereof.

In so far as any Amended/Modified/Added clause may come in conflict or be inconsistent with any of the provisions of the said specifications under reference, the Amended/Modified/Added clause shall always prevail. While carrying out any work the Developer shall ensure that any requirements specific to the site and similar factors are kept in view.

All measurements shall be made in the metric system. The measurements and computations unless/otherwise indicated shall be carried nearest to the following limits.

Length and breadth	:	5 mm
Height, Depth or thickness	:	1 mm
Area	:	0.01 sq.m.
Cubic Contents	:	0.01 cu.m.

SCHEDULE 4: VESTING CERTIFICATE

DMA, Jharkhand, having its office at _____, Jharkhand, (the "DMA")) refers to the Agreement dated _____ (the "Agreement") entered into between the DMA and _____ (the "Developer") for **CONSTRUCTION OF 40000 E.W.S. DWELLING UNITS ON HYBRID ANNUITY MODEL ON PPP BASIS UNDER VERTICAL-3 OF PMAY – HOUSING FOR ALL 2022 (URBAN) IN URBAN AREAS IN JHARKHAND** (the "Project") on design, build, finance and transfer basis.

1. The DMA hereby acknowledges compliance and fulfillment by the Developer of the divestment requirements set forth in Clause 14.6 of the Agreement on the basis that upon issue of this Vesting Certificate, the DMA shall be deemed to have acquired, and all title and interest of the Developer in or about the Project shall be deemed to have vested unto the DMA, free from any encumbrances, charges and liens whatsoever.
2. Notwithstanding anything to the contrary contained hereinabove, it shall be a condition of this Vesting Certificate that nothing contained herein shall be construed or interpreted as waiving the obligation of the Developer to rectify and remedy any defect or deficiency in any of the divestment requirements and/or relieving the Developer in any manner of the same.

Signed this ____ day of _____, 20__ at [_____].

AGREED, ACCEPTED AND SIGNED SIGNED, SEALED AND DELIVERED

For and on behalf of

For and on behalf of

DEVELOPER by:

Directorate of Municipal Administration by:

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

(Address)

(Address)

In the presence of:

1.

2.

SCHEDULE 5: IMPLEMENTATION SCHEDULE

1. Project Completion Schedule

During Construction Period, the Developer shall comply with the requirements set forth in this Schedule for each of the Project Milestones (the "Project Completion Schedule"). Within 15 (fifteen) days of the date of each Project Milestone, the Developer shall notify DMA of such compliance along with necessary particulars thereof.

Project Milestones

Project Milestone	Timelines (from the Compliance Date)	Requirement
Project Milestone -1	3 months	expended more than 15% of the Total Project Cost set forth in the Approved DPR
Project Milestone -2	6 months	expended more than 30% of the Total Project Cost set forth in the Approved DPR
Project Milestone -3	12 months	expended more than 50% of the Total Project Cost set forth in the Approved DPR
Project Milestone -4	18 months	expended more than 75% of the Total Project Cost set forth in the Approved DPR
Project Milestone -5 (Scheduled Construction Completion Date)	24 months	Issue of Completion Certificate

2. Extension of period

The Scheduled Construction Completion Date may be extended in terms of this Agreement upon written request to the DMA. Upon extension of any or all of the aforesaid Project Milestones or the Scheduled Construction Completion Date, under and in accordance with the provisions of this Agreement, the Construction Period shall be deemed to have been amended accordingly.

SCHEDULE 6: LIQUIDATED DAMAGES

Amount of Liquidated Damages:

Amount of Liquidated damages for non-performance	Rs. 10,000 (Rupees ten thousand only) per event of default as identified by DMA/ Independent Engineer subject to a maximum Rs 1.0 Cr (Rupees one crore only) per annum.
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Occurrences for Invoking Liquidated Damages: Non-Conformance to Approved DPR or Development Standards.

SCHEDULE 7: TERMS OF REFERENCE FOR INDEPENDENT ENGINEER

1. Objectives

- 1.1. Act independently on behalf of the DMA to review and approve all activities associated with planning and construction and operationalization of Development Agreement.
- 1.2. To ensure that requisite quality of Construction is achieved and that the construction of the Project is carried out in full compliance with the Approved DPR, the RFQ cum RFP documents consisting of Instructions to Bidders, Development Agreement along with the Schedules, Scope of Works.
- 1.3. Assist DMA on the Technical, Financial and Legal aspects of the Project and the Concession.
- 1.4. Assist in arriving at an amicable settlement of any dispute.
- 1.5. To fulfill all certification and reporting requirements of the Development Agreement.

2. The details of Scope of Work are as follows:

2.1. Design Stage

- (1) To review, check, verify and further detail the Project Implementation Schedule of engineering, design, procurement, construction including final reconciliation upto handover of the Project.
- (2) The Independent Engineer shall review and approve the detailed design of the Project, prepared by Developer, pursuant to which the Developer shall proceed ahead with construction of the Project.
 - a) Project / Design Briefs and changes thereof
 - b) Site Plan & Architectural Review
 - c) Civil Services – PHE (Water Supply, Drainage, Sewer) & Road (Geometry and Structure) – Proof Checking
 - d) Proof Checking – Structural design and adequacy
 - e) M & E Services – Design Adequacy
- (3) Review, check and verify the adequacy of all field and site investigation including geo-technical, Soil investigations, hydrological Investigation and the topographical Survey
 - a) Study of the Design & Detail Engineering Drawings
 - b) Site Reconnaissance Survey
 - c) TOR for these works based on Design and Site Reconnaissance survey.
 - d) Site Survey Drawings for adequacy in terms of no. of bore-holes, locations and type of tests including specifications
- (4) Review, check and verify the Working drawings, Specifications, Analysis of rates and Bill of Quantities (BoQ)
- (5) Review, check and verify the procurement procedures

2.2. Construction Stage

- (1) Review, check & verify
 - a) The periodic project report prepared by the Developer.
 - b) Technical Guide for Construction Management
 - c) Construction Control Manual and various Quality Tools including Works Control Formats and Check Lists
 - d) All Project Contracts/ Agreements including Detailed Engineering and Design Consultancy Contract, EPC contract, O & M Contract
 - e) Quality Assurance Plan and Quality Control (QAQC) provisions during the construction Stages

- f) Cost Monitoring / Control / Value Management Criteria
- g) Variations
- (2) Supervision of various Tests (as per the provision of Agreement) and their Certification
- (3) Examine and approve any change in Scope of Work or Variations, as per provisions of Concession
- (4) Scrutinise GFC drawings including variations thereof, supervise the setting out of the works
- (5) Audit the safety of the Project both during Construction stages
- (6) Periodic review of the Project Works as per agreed Project Programme in terms of Quality, Completion Stage and changes and corrective actions thereof
- (7) Examining the works and accordingly issue Provisional Completion Stage and Final Completion Stage Certificate
- (8) Issue Provisional Certificate duly appended with a list of outstanding items established after joint inspection

2.3. **All through the tenure of Construction and Development Phase**

- (1) Assist DMA in operational aspects of Development Agreement, especially with Change in Scope of Work, in terms of facilities to be provided from existing Development Agreement
- (2) Regard to Commercial / Financial and Legal issues of the Agreement.
- (3) Notice Event of Default by either party as per Development Agreement
- (4) To mediate and assist in resolving Disputes between DMA and Developer.
- (5) Determine any extension of the Project Completion Schedule, to which the Developer has requested and shall notify it to the DMA accordingly.
- (6) Administration of Development Agreement
- (7) Assist in Providing Management Information System to DMA

3. **Reporting Requirements**

The Independent Engineer will prepare and submit to the DMA two copies of each of the following reports:

a) Monthly Reports

The Independent Engineer will, no later than the 10th of each month, prepare a brief progress report summarizing the work accomplished for the preceding month. The report will outline any problems encountered (administrative, technical or financial) and give recommendations on how these problems may be overcome. Brief work progress summaries will be included for ongoing Works, outlining problems encountered and recommending solutions. The report should indicate, among other things, actions required of government and parastatal agencies to permit unconstrained works implementation

(b) Quarterly and Periodic Reports

The Independent Engineer will prepare a comprehensive report summarizing all activities under the services at the end of each quarter, and also at other times when considered warranted by the DMA because of delay of the construction works or because of the occurrence of technical or contractual difficulties. Such reports shall summarize not only the activities of the Independent Engineer but also the progress of the contract, all contract variations, brief descriptions of the technical and contractual problems being encountered and other relevant information.

SCHEDULE 8: ENVIRONMENTAL MANAGEMENT PLAN

(To be submitted by the Developer as part of the DPR)

SCHEDULE 9: INDICATIVE LIST OF CLEARANCES

DMA will provide all the necessary support to the Developer to obtain clearances* required for the project, however Developer shall be responsible for obtaining and maintaining all the clearances. An indicative list of clearances required for the project is provided in the table below:

Indicative List of Clearances

Building Construction Permission	Local Authority / Municipal Corporation
Heritage Clearance	Permission from ASI/ relevant Authority
Water & Sewerage Connection	Concerned Authority
Shifting of Services and utilities	Concerned Authority, Local Authority, PWD (B&R) Department
Traffic Management during operation	Traffic Police
Application for PAN, sales tax and other tax registrations etc.	Concerned departments of Government of Jharkhand and Government of India (GoI)
Electricity connection	Respective Electricity Board in Jharkhand
Clearance for employing labor-Primary Employer	Labour Commissioner
Clearance for blasting and use of explosives	Commissioner of Explosives and Police Department, GoJ
Employment of migrant labour	Labour Commissioner
Storage of sludge/silt	Jharkhand State Pollution Control Board
Environmental Clearance	MoEF
License for commercial activities	Concerned Authority
Realignment and channelization of Nallas	Concerned Authority, Jharkhand PWD (B&R)
Installation of Lifts	Concerned Authority
Fire safety equipment	Concerned Authority /Police Department
Drains and Sewers	Concerned Authority, Jharkhand PWD (B&R)
Diesel Generator	Jharkhand State Pollution Control Board
Labour Camps	District Health Officer
Working in Night Shifts	Concerned Authority, Police Department
Re-routing of vehicular traffic	Concerned Authority, Traffic Police

*The clearance list is indicative and not exhaustive

SCHEDULE 10: FORMAT OF BANK GUARANTEE FOR PERFORMANCE SECURITY

PROFORMA OF BANK GUARANTEE – I

(FOR CONSTRUCTION PERIOD)

(To be issued by a Scheduled Bank in India)

THIS DEED OF GUARANTEE executed on this the ---- day of ---- at ---- by -----
----- (Name of the Bank) having its Head/Registered office at -----
----- hereinafter referred to as “the **Guarantor**” which expression shall unless it be repugnant
to the subject or context thereof include successors and assigns;

In favour of DMA, Ranchi, hereinafter called DMA (which expression shall include its successors and
assigns);

WHEREAS

- A. By the Development Agreement dated ----- entered into between DMA and M/s.
----- Limited, a company incorporated under the Companies Act, 2013 having its
registered office at ----- hereinafter called “the **Company**”, (“the **Development
Agreement**”) the Company has been granted the Concession to implement the project envisaging
construction, of ----- on design, build, finance and transfer basis.
- B. In terms of the Development Agreement, the Company is required to furnish to DMA, an
unconditional and irrevocable bank guarantee for an amount of Rs. ----- (Rupees -----
- only) as performance security for due and punctual performance/discharge of its obligations under
the Development Agreement during the Construction Period.
- C. At the request of the Company, the Guarantor has agreed to provide guarantee, being these presents
guaranteeing the due and punctual performance/discharge by the Company of its obligations under
the Development Agreement during the Construction Period.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

1. Capitalised terms used herein but not defined shall have the meaning assigned to them respectively
in the Development Agreement.
2. The Guarantor hereby guarantees the due and punctual performance by the Company of all its
obligations under the Development Agreement during the Construction Period.
3. The Guarantor shall, without demur, pay to DMA sums not exceeding in aggregate Rs. -----
(Rupees ----- only), within five (5) days of receipt of a written demand therefore from
DMA stating that the Company has failed to meet its performance obligations under the

Development Agreement during the Construction Period. The Guarantor shall have no obligation to go into the veracity of any demand so made by DMA and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Company or any other Person.

4. In order to give effect to this Guarantee DMA shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Development Agreement or other documents or by the extension of time for performance granted to the Company or postponement/non exercise/ delayed exercise of any of its rights by DMA or any indulgence shown by DMA to the Developer and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, extension, postponement, non exercise, delayed exercise of any of its rights by DMA or any indulgence shown by DMA provided nothing contained herein shall enlarge the Guarantor's obligation hereunder.
5. This Guarantee shall be irrevocable and shall remain in full force and effect until discharge by the Guarantor of all its obligations hereunder.
6. This Guarantee shall not be affected by any change in the constitution or winding up of the Company/the Guarantor or any absorption, merger or amalgamation of the Company/the Guarantor with any other Person.
7. The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorised to execute this Guarantee pursuant to the power granted under _____.

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN.

SIGNED AND DELIVERED by ----- Bank by the hand of

Shri -----

its ----- and authorised official.

SCHEDULE 11: BID OF SELECTED BIDDER

Proposal of Selected Bidder.

SCHEDULE 12: COPIES OF RELEVANT DOCUMENTS RELATED TO SELECTION PROCESS

To be added later.
